

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:)

ICAP Europe Limited,)

Respondent.)

) CFTC Docket No. 13 – 38
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Office of Proceedings
Proceedings Clerk

7:18 am, Sep 25, 2013

**ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT
MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS**

I.

The Commodity Futures Trading Commission (the "Commission" or the "CFTC") has reason to believe that ICAP Europe Limited ("Respondent" or "ICAP"), a subsidiary of ICAP plc, has violated Sections 6(c), 6(d) and 9(a)(2) of the Commodity Exchange Act (the "Act" or the "CEA"), 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein, and to determine whether any order shall be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement ("Offer"), which the Commission has determined to accept. Without admitting or denying the findings or conclusions herein, except to the extent Respondent admits those findings in any related action against ICAP by, or any agreement with, the Department of Justice or any other governmental agency or office, Respondent herein consents to the entry and acknowledges service of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions ("Order").¹

¹ Respondent consents to the entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that Respondent does not consent to the use of the Offer, or the findings or conclusions in this Order, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order or where Respondent has admitted findings as set forth above. Nor does Respondent consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

III.

The Commission finds the following:

A. Summary

The Yen London Interbank Offered Rate (“Yen LIBOR”), the benchmark rate at issue in this Order, is one of the most important financial benchmark interest rates used around the world. Yen LIBOR is established every day based on information submitted by banks who are members of the Yen LIBOR Panel. Three panel banks have been found to have undermined the integrity and reliability of LIBOR and other benchmark rates through the manipulative acts of their employees. As set forth below, money market and derivatives traders at the banks were not the only wrongdoers with respect to LIBOR. The Yen interdealer brokers of Respondent ICAP – purported honest middlemen between banks – participated as well.

For more than four years, from at least October 2006 through at least January 2011 (“relevant period”), ICAP brokers on the Yen derivatives and cash desks knowingly disseminated false and misleading information concerning Yen borrowing rates to market participants in attempts to manipulate, at times successfully, the official fixing of the daily Yen LIBOR. ICAP brokers, including one known as “Lord LIBOR,” engaged in this misconduct primarily to aid and abet a highly valued client, who was a senior Yen derivatives trader (“Senior Yen Trader”) employed at UBS Securities Japan Co., Ltd. (“UBS”) and later at another bank, in his relentless attempts to manipulate Yen LIBOR to benefit his derivatives trading positions that were tied to this benchmark.²

The rates contributed by the panel banks for Yen LIBOR are supposed to reflect each bank’s assessment of the costs of borrowing unsecured funds in the London interbank market. Before panel banks make their rate submissions each day, certain interdealer brokers, such as ICAP, which intermediate over-the-counter (“OTC”) cash and LIBOR-based derivatives transactions between banks and other institutions, provide banks with their trading insight on cash pricing trends in the market and on assessments of likely LIBOR rates. Brokers provide this type of market information as a service to clients to solicit and maintain business, and are thus well-situated to influence the fixing of Yen LIBOR. During the financial crisis of late 2007 through 2009 (“2007-2009 financial crisis”), panel banks became increasingly reliant on such market information from ICAP brokers and others to inform their LIBOR submissions. Accordingly, ICAP brokers’ market views could and did have a significant impact on Yen LIBOR submissions.

² On December 19, 2012, the Commission issued an Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions against UBS AG and UBS, finding, among other things, that UBS AG and UBS, through the Senior Yen Trader, attempted to manipulate Yen LIBOR, at times successfully, through multiple methods. The Commission’s Order against UBS AG and UBS found that one of the Senior Yen Trader’s strategies included enlisting the aid of interdealer brokers to attempt to influence the rates submitted by Yen LIBOR submitters at other panel banks. In that Order, ICAP was identified as Brokerage A and the ICAP brokers referenced were identified as Brokerage A Yen Manager, Derivatives Broker A1 and Cash Broker A. See <http://www.cftc.gov/PressRoom/PressReleases/pr6472-12>.

The Senior Yen Trader sought to capitalize on ICAP's extensive network of contacts at the Yen LIBOR panel banks to achieve his manipulative goals. Because the Senior Yen Trader was a significant client of the ICAP Yen derivatives desk, and to ensure that the desk kept and increased its share of his business, including the commissions and bonuses he generated for ICAP, the ICAP Yen brokers readily acquiesced to his repeated demands for assistance in manipulating Yen LIBOR.

Over the years the Senior Yen Trader made more than 400 manipulative requests of certain ICAP brokers, which they often accommodated. Those ICAP Yen brokers used two means to disseminate false Yen LIBOR information and influence Yen LIBOR submitters. First, one ICAP "cash" broker provided daily market information concerning Yen LIBOR borrowing rates via group emails and oral communications to market participants, including Yen LIBOR submitters. The group emails were called "Run Thrus" and included "Suggested LIBORs" for certain Yen LIBOR tenors. Market participants believed that the Suggested LIBORs reflected the cash broker's assessment of how Yen LIBOR would be fixed based on his unbiased evaluation of borrowing costs in the interbank market. Almost all of the panel banks' Yen LIBOR submitters received the cash broker's Run Thru emails, and several relied on them in making their own rate submissions. However, during the relevant period, ICAP's Yen cash broker often skewed his Suggested LIBORs to benefit the Senior Yen Trader, rather than provide an objective, unbiased assessment of this benchmark interest rate. The brokers attempted to exploit the bank submitters' reliance, even sometimes referring to submitters as "sheep" blindly adopting the Suggested LIBORs as their own submissions. Second, at times, certain ICAP Yen brokers targeted particular submitters or traders at panel banks and provided them false LIBOR information individually under the guise of true market information.

ICAP's Yen derivatives desk maintained ICAP's direct relationship with the Senior Yen Trader. They and the Senior Yen Trader ensured the ICAP cash broker's unlawful assistance by providing various financial incentives, but the cash broker grew increasingly demanding. At one point, the ICAP Yen cash broker threatened the head of the Yen derivatives desk – "no more mr libor" – if he was not well-compensated for his services. As the cash broker's demands grew, the "kick backs" (as the head of the Yen derivatives desk called it) paid to the cash broker for "LIBOR services" quickly escalated from free meals and champagne, to commissions specially generated by the Senior Yen Trader, to a quarterly payment of \$9,000 (ultimately totaling \$72,000).

Separate from the unlawful activity to help the Senior Yen Trader, on a limited number of occasions, the ICAP Yen brokers aided and abetted other derivatives traders' attempts to manipulate Yen LIBOR, for the same reasons that motivated them to help the Senior Yen Trader.

ICAP's ineffectual supervision of the Yen derivatives and cash desks, its misplaced reliance on the expectation that Yen desk heads would enforce a compliance regime on their desk colleagues, and its failure to audit the Yen derivatives desk or adequately review the Yen brokers' communications with clients, among other internal controls and supervisory deficiencies, allowed this misconduct to continue for years.

In accepting ICAP's Offer, the Commission recognizes Respondent's cooperation during the Division of Enforcement's investigation of this matter.

B. Respondent

ICAP Europe Limited ("ICAP") is a wholly owned subsidiary of ICAP Group Holdings plc ("ICAP Group"), a wholly owned subsidiary of ICAP plc, and is headquartered in London, England. It manages some of ICAP Group's brokering business in Europe, including the brokering business conducted by Yen brokers and other brokers engaged in the unlawful conduct found herein. Neither ICAP nor ICAP Group is registered with the Commission in any capacity.

C. Facts

1. LIBOR and the Fixing of LIBOR

LIBOR is the most widely used benchmark interest rate in the world and affects market participants and consumers throughout the world, including in the United States. LIBOR is used as a barometer to measure strain in money markets and is often a gauge of the market's expectation of future central bank interest rates. LIBOR is used in interest rate transactions with a notional value of \$500 trillion, such as OTC swaps, loans and exchange-traded interest rate futures and options contracts.

During the relevant period, under the auspices of the British Bankers' Association ("BBA"),³ LIBORs were issued on a daily basis for ten currencies, including Yen, with fifteen tenors (*i.e.*, durations for interest rates) ranging from overnight through twelve months. Certain currencies, including Yen, are more widely referenced in interest rate contracts. One, three and six months are the most common tenors referenced in LIBOR-indexed transactions.

According to the BBA, LIBOR "is based on offered inter-bank deposit rates contributed in accordance with the Instructions to BBA LIBOR Contributor banks." The BBA requires that:

[a]n individual BBA LIBOR Contributor Panel Bank will contribute the rate at which it could borrow funds, were it to do so by asking for and then accepting inter-bank offers in reasonable market size just prior to [11:00 a.m. London time].⁴

³ On July 9, 2013, NYSE Euronext Rate Administration Limited announced that it had been appointed as the new administrator for LIBOR. The transfer of the administration from BBA LIBOR Ltd, the subsidiary of the BBA, is expected to be completed in early 2014, once the Financial Conduct Authority's ("FCA") authorization of NYSE Euronext Rate Administration Limited is complete.

⁴ This definition of LIBOR has been used by the BBA from 1998 to the present.

Every business day shortly before 11:00 a.m. London time, the banks on the LIBOR panels submit their rates to Thomson Reuters. A trimmed averaging process is used to exclude the top and bottom quartile of rates and the remaining rates are averaged for each tenor. That average rate becomes the official BBA daily LIBOR (the “LIBOR fixing”).

The BBA makes public the daily LIBOR fixing for each currency and tenor, as well as the daily submissions of each panel bank, through Thomson Reuters and the other data vendors licensed by the BBA. This information is made available and relied upon by market participants and others throughout the world, including in the United States.

By its definition, LIBOR requires that the submitting panel banks exercise their judgment to determine the rates at which they may obtain unsecured funds in the London interbank market. These definitions require that submissions relate to funding and do not permit consideration of factors unrelated to the costs of borrowing unsecured funds, such as the benefit to a bank’s derivatives or money market trading positions.⁵

2. ICAP’s Role as an Interdealer Broker

a. ICAP Intermediates OTC Derivatives and Cash Transactions

Because of their role in the financial markets, interdealer brokers, including ICAP, have a significant impact on panel banks’ views of the interbank markets for cash deposits, and therefore have a potential impact on panel banks’ LIBOR submissions. Interdealer brokers, also known as voice and electronic brokers, act as intermediaries between major dealers in the money markets and the OTC derivatives markets to facilitate execution of interdealer trades. Interdealer brokers assist banks in obtaining funding by facilitating the negotiation of deposits and loans, and in hedging those transactions with derivatives trades often referenced to LIBOR. Brokers match buyers and sellers in return for commissions, and provide market information for banks. Typically, broker commissions are based on a percentage of the notional value of consummated transactions. Therefore, higher commissions are generated from brokering larger trades.

In order to find matching counterparties, brokers provide bid or offer prices for a financial transaction. Brokers use “squawk boxes” or speakerphones which allow them to speak to numerous trading desks of their bank clients and simultaneously to disseminate broadly bid and offer prices. Brokers also frequently use Bloomberg instant message chats and other messaging platforms, email and dedicated telephone lines.

⁵ In June 2008, the BBA clarified that panel banks could not contribute a rate based on the pricing of any derivative financial instrument. BBA guidelines issued in October 2009 further clarified that LIBOR submitters “should not ask intermediaries where they believe LIBOR rates will set on a given day and use this as a basis for submissions. This misses the point of the benchmark, and is a circular process that would rapidly lead to inaccurate rates.”

b. ICAP Organization

ICAP employs cash brokers, who intermediate cash trades in the money markets, and derivatives brokers, who intermediate derivatives transactions. ICAP organizes its brokers on desks by currency and by product, which means that for certain currencies, the cash brokers and the derivatives brokers sit on different desks. The desk primarily involved in the unlawful conduct found herein was the Yen derivatives desk (“Yen Desk”) which was comprised of as many as seven brokers including the head of the desk (“Yen Desk Head”). Senior Yen Trader was a client of the most senior Yen broker on the desk, “Derivatives Broker 1.” Senior Yen Trader also worked with another senior Yen broker on the desk (“Derivatives Broker 2”) when Derivatives Broker 1 was out of the office. Derivatives Broker 1 and the Yen Desk Head were the brokers principally involved in the false reporting of Yen LIBOR market information and the attempts to manipulate the Yen LIBOR fixings. However, the entire Yen Desk, including another longtime Yen broker (“Derivatives Broker 3”) and a newly-arrived junior broker (“Junior Broker 1”), was also involved and aware of the conduct. Certain of the Yen derivatives brokers received a portion of the Yen Desk’s net revenue as a bonus.

The EuroYen Cash Desk (“Cash Desk”) facilitated cash transactions in several currencies, with individual brokers on the desk specializing in particular currencies. One broker on the desk focused on both Euro- and Yen-based transactions (“Cash Broker 1”). Cash Broker 1 was ICAP’s sole Yen cash broker and was the cash broker who knowingly disseminated false market information concerning Yen LIBOR. At times, when Cash Broker 1 was out of the office, ICAP Yen derivatives brokers used a Euro cash broker (“Cash Broker 2”), who did not broker Yen transactions, to disseminate the false market information.⁶

c. ICAP’s “Market Color” Services Include “Suggested LIBORs”

In addition to brokering transactions, as part of their client services, interdealer brokers, including ICAP, frequently provide clients with their views and advice on market pricing and trends, often called “market color.” Clients, including LIBOR submitters and interest rate derivatives traders at panel banks, rely on brokers for such information. Because brokers speak to multiple clients at different financial institutions and share internally the information learned from clients, they have particular market insight about cash market prices and trends in otherwise opaque markets, offering an important price discovery function. In providing this market information, interdealer brokers are implicitly representing that such market information reflects their third-party unbiased assessment of borrowing costs and market pricing based on objective, observable data, some of which they uniquely possessed.

During the relevant period, certain interdealer brokers, including ICAP brokers, provided, and still provide, predictions or suggestions of where they believe key benchmark interest rates, such as LIBOR, would fix on specific days. Interdealer brokers, including ICAP brokers, also at times shared with some panel banks the intended LIBOR submissions of other panel banks.

⁶ Another ICAP broker sitting on another desk, who used to work with the Senior Yen Trader at another bank, also facilitated the Senior Yen Trader’s attempts to manipulate Yen LIBOR on a few occasions. See *infra*, Section III.C.3.h.

During the relevant period, a number of ICAP brokers and brokers at other brokering firms circulated via email or by telephone each morning daily Run Thrus of the rates they expected to be published for LIBOR in various currencies and tenors, as well as other pricing information. Cash Broker 1 routinely disseminated his Yen Run Thrus every morning at approximately 7:00 a.m. London time, well before the BBA's 11:00 a.m. Yen LIBOR submission deadline. The Run Thrus contained the following information: (1) a column stating where rates (prices) in basis points for Yen cash trades, for all tenors, were observed the previous trading day, broken down by Japanese and non-Japanese financial institutions; (2) a column stating the spread of rates for Yen cash trades for all tenors that were observed as of the market opening in London and late afternoon Tokyo, broken down by Japanese and non-Japanese financial institutions; and (3) a column titled "Suggested LIBORs," which contained Cash Broker 1's suggestions as to where the published Yen LIBOR fixing for each tenor between one month and one year would set that day.⁷ The following is an example of Cash Broker 1's Run Thru email, from January 2, 2007:

01/02/2007 07:05					
From: [Cash Broker 1]					
Sent: Tuesday, January 2, 2007 7:06 AM					
Subject: yen runthro2.xls2/1					
GOOD MORNING YEN RUN THRU					
TODAY		YESTERDAY		SUGGESTED LIBORS	
Japanese		Japanese			
T/N	35 33	T/N	46 43	1M	0.47375
S/N	35 33	S/N	40 35	2M	0.535
1Wk	36 34	1Wk	37 35	3M	0.5675
2Wk	37 35	2Wk	37 35	4M	0.59125
3Wk	42 39	3Wk	42 39	5M	0.61
1m	47 45	1m	47 45	6M	0.63
2m	56 53	2m	53 50	9M	0.695
3m	59 56	3m	57 54	1YR	0.7525
4m	61 58	4m	59 56		
5m	63 60	5m	62 59		
6m	66 63	6m	64 61		
9m	72 69	9m	69 66		
1yr	78 75	1yr	76 73		
Non Japanese		Non Japanese			
T/N	34 32	T/N	46 45		
S/N	34 32	S/N	42 48		
1Wk	35 33	1Wk	38 35		
2Wk	38 35	2Wk	38 35		
3WK	42 38	3Wk	42 38		
1m	46 43	1m	47 44		
2m	53 50	2m	52 49		
3m	56 53	3m	56 53		
4m	58 55	4m	58 55		
5m	60 57	5m	60 57		
6m	63 60	6m	62 59		
9m	69 66	9m	67 64		
1yr	75 72	1yr	75 72		
cd	no trades	cd	no trades		
o/n	exp .26	o/nite	exp .26		
1am3	745 735	1am3	7325 7275		
1am6	755 745	1am6	74 73		
2yr	93625 92625	2yr	955 95		
CHEERS [Cash Broker 1]					

⁷ Cash Broker 1 began providing the cash pricing information through his daily Run Thru emails several years before the start of the relevant period in 2006. He added the "Suggested LIBORs" column in April 2005.

As early as March 2006, ICAP brokers knew that banks were relying heavily on ICAP brokers for LIBOR suggestions and other market information due to volatile market conditions, and that such market information had monetary value to ICAP. In an email, ICAP's Yen Desk Head commented to his supervisor:

The market at the moment is so volatile that banks are becoming dependant [sic]⁸ on ICAP for libor calls and swap/spread prices. ... It is getting to the point when I will be quite happy refusing banks a service or a nod on libors if they do not support us or ask for an unreasonable brokerage agreement. The yen is getting so volatile that banks are not sure where swaps should be so in such a market place e we should not be getting bunched up with yen in Tokyo or the other big currencies.

During the 2007-2009 financial crisis, LIBOR submitters became increasingly reliant on interdealer brokers for their market information, including specific information about the level at which other panel banks intended to submit LIBORs, and the brokers' suggested LIBORs. This reliance was due to limited interbank lending occurring upon which submitters could base their LIBOR submissions. Some panel banks believed at times during the financial crisis that such market information provided by ICAP and other interdealer brokers was possibly the only meaningful market information available to assess their ability to borrow funds in the interbank markets.⁹

3. ICAP Brokers Disseminated False and Misleading Suggested LIBORs in an Effort to Manipulate Yen LIBOR to Benefit Panel Banks, at Times Successfully

Throughout the relevant period, certain ICAP Yen derivatives and cash brokers, acting together, knowingly disseminated false and misleading suggested Yen LIBORs, in attempts to influence the Yen LIBOR submissions made by Yen LIBOR panel banks and thereby manipulate the official fixing of Yen LIBOR. These ICAP Yen brokers engaged in such false reporting primarily to assist the Senior Yen Trader at UBS (and later at another bank) in his nearly constant efforts to manipulate Yen LIBOR to benefit his Yen derivatives trading positions that were valued based on the Yen LIBOR fixings. The Senior Yen Trader and the ICAP Yen derivatives and cash brokers believed that Cash Broker 1 could influence many of the Yen panel banks' submissions to levels favorable to the Senior Yen Trader's positions, and thereby affect the direction and level Yen LIBOR would fix at various tenors to benefit the Senior Yen Trader's positions. By beneficially affecting the Yen LIBOR fixings, the Senior Yen Trader could increase his profits or reduce his losses on his trading positions. At times, the collective efforts

⁸ The communications quoted in this Order are from emails, instant messages, and the like. Some contain shorthand trader language and typographical errors. The shorthand and errors are explained in brackets within the quotations only when necessary to understand the discussion.

⁹ Yen LIBOR submitters' reliance on interdealer brokers for market information was not consistent with BBA guidelines. *See supra* note 5.

of relevant ICAP Yen brokers and the Senior Yen Trader were successful in influencing Yen LIBOR submissions made by the panel banks, and thereby manipulating Yen LIBOR.

The Senior Yen Trader made over 400 oral and written requests of certain ICAP brokers to assist with his manipulative scheme for Yen LIBOR, with each request covering multiple tenors, typically one, three and six months. These ICAP Yen derivatives and cash brokers often accommodated his requests. Their assistance to the Senior Yen Trader primarily consisted of two forms: (1) dissemination of false and misleading Suggested Yen LIBORs skewed to benefit the Senior Yen Trader's derivatives trading positions through Cash Broker 1's Run Thru emails provided to most of the Yen LIBOR submitters at panel banks; and (2) at times personally speaking with Yen derivatives traders or LIBOR submitters at panel banks to try to influence them to submit rates that they secretly knew would be beneficial to the Senior Yen Trader.

After the Senior Yen Trader was no longer employed by UBS, certain ICAP Yen brokers offered these same services, which the brokers knew to be corrupt, to at least one UBS derivatives trader who was managing positions left by the Senior Yen Trader and also to at least one derivatives trader at another panel bank in an effort to obtain new business.

a. ICAP Brokers Provided Unlawful Assistance to Senior Yen Trader from the Outset

In the fall of 2006, shortly after the Senior Yen Trader joined UBS, he became a client of Derivatives Broker 1. The Senior Yen Trader, based in Tokyo, was then a relative newcomer to the Yen market but quickly became known as a high volume, aggressive and dominant Yen derivatives trader who was injecting significant liquidity into a previously illiquid market. Because he commanded a large trading volume, the Senior Yen Trader was a highly desirable and sought after client of interdealer brokers.

To ensure he received significant business from the Senior Yen Trader, Derivatives Broker 1, based at that time in London, agreed to work overnight to better serve the Senior Yen Trader during Tokyo business hours and became the primary contact for the Senior Yen Trader at ICAP. (Tokyo is eight hours ahead of London.) As a result, Derivatives Broker 1 gave up his other London-based clients, and by early 2007 relied almost exclusively on the Senior Yen Trader for his business and resulting commissions.

From the outset of his client relationship with the Senior Yen Trader and to keep the Senior Yen Trader's business, Derivatives Broker 1 routinely and aggressively assisted him in efforts to manipulate Yen LIBOR. When Derivatives Broker 1 was out of the office, other Yen derivatives brokers on the Yen Desk, primarily Derivatives Broker 2 or the Yen Desk Head, coordinated with the Senior Yen Trader on his requests to manipulate; at times other brokers on the Yen Desk helped him as well.

i. ICAP Cash Broker 1's Suggested LIBORs Sent to Yen LIBOR Panel Banks Were Skewed to Benefit the Senior Yen Trader

To accomplish the Senior Yen Trader's manipulative goals, Derivatives Broker 1 needed and obtained the critical assistance of Cash Broker 1. Cash Broker 1 had long-standing relationships and daily contact with many of the Yen panel bank submitters. He often discussed with submitters what their intended LIBOR submissions would be and what other panel banks might submit. Cash Broker 1 also issued the daily Suggested LIBORs as part of his Run Thrus upon which Yen LIBOR submitters relied in whole or in part at times to make their Yen LIBOR submissions.

As early as October 2006, Derivatives Broker 1, acting on behalf of the Senior Yen Trader, began asking Cash Broker 1 to skew his Suggested LIBORs that he provided in the Run Thru emails or in calls to traders or submitters to reflect the rates or levels desired by the Senior Yen Trader. Cash Broker 1 knew from the outset that such requests were for the Senior Yen Trader. At times, the Senior Yen Trader reached out to Cash Broker 1 directly, such as on March 23, 2007: "hi [Cash Broker 1] know [Derivatives Broker 1] is away and this may seem strange given my recent requests but really need a high/unchanged 1m libor today, low for everything else. thanks as always [Senior Yen Trader]."

Cash Broker 1's skewed Suggested LIBORs sent to Yen LIBOR submitters as part of his daily Run Thrus was the primary and most effective method by which certain ICAP brokers assisted the Senior Yen Trader in his efforts to manipulate the daily Yen LIBOR fixings. Cash Broker 1's Run Thrus were widely circulated among and valued by Yen market participants at the panel banks and elsewhere. More than 100 cash and derivatives traders received Cash Broker 1's Run Thru emails, including traders from nearly all of the Yen LIBOR panel banks and, at different times, submitters from at least eleven of the sixteen Yen LIBOR panel banks. Many, if not all of the recipients of the Run Thrus, asked to receive the emails. Cash Broker 1 sent skewed Suggested LIBORs even to Bank of England staff.

ICAP Yen brokers, the Senior Yen Trader and others believed that Cash Broker 1's Suggested LIBORs directly influenced the Yen LIBOR submissions by panel banks. At least several panel banks considered the Run Thrus when making their Yen LIBOR submissions, and at times, some banks simply submitted the very rates suggested by Cash Broker 1. Throughout the relevant period, the Yen LIBOR submissions of certain panel banks overwhelmingly mirrored the Suggested LIBORs of Cash Broker 1. For example, Bank A submitted one-month, three-month, and six-month Yen LIBORs that were identical to Cash Broker 1's LIBOR suggestions on 90 percent of the submission dates in 2007, and 80 percent of the submission dates in 2008. Similarly, Bank B submitted one-month, three-month, and six-month Yen LIBORs that were identical to Cash Broker 1's LIBOR suggestions on 80 percent of the submission dates in 2008, and 70 percent of the submission dates in 2009.

Even submitters at panel banks that tried to make benchmark interest rate submissions that reflected an assessment of the costs of borrowing funds in the interbank Yen market may have passed on false or misleading submissions because they used ICAP brokers' purported unbiased assessments of Yen borrowing rates and Suggested LIBORs to inform their

submissions. Their reliance on ICAP brokers meant that their submissions did not actually reflect borrowing costs, but rather the Senior Yen Trader's desired rates. The ICAP brokers believed that the wide dissemination of and reliance on the Suggested LIBORs would increase the chances that they would at times be successful in manipulating Yen LIBOR submissions, and thereby Yen LIBOR, for the Senior Yen Trader and others. This was the "libor service" (as coined by the brokers involved) they provided to the Senior Yen Trader.

ICAP Yen brokers gloated over their influence on the Yen market and the Yen LIBOR fixings. They referred to panel banks as "copying" the Cash Broker's Suggested LIBORs, and called them "sheep" because they followed wherever the Cash Broker led them ("**Cash Broker 1] sending out higher than he thinks so hopefully the sheep will just copy**"). Cash Broker 1 believed and boasted that a number of banks were copying his Yen LIBOR recommendations. Cash Broker 1 referred to himself and was called by others by such monikers as "Mr. LIBOR," "Lord LIBOR," "Lord Bailiff" and "M'Lord." At least Derivatives Broker 1 also believed Cash Broker 1 was successful in "moving the market" on a number of occasions. Derivatives Broker 1 sold this success to the Senior Yen Trader, noting at various times as follows:

- "[Cash Broker 1] has been doing a number on some of the contributors because a couple of them were edging their libors slightly lower yesterday before he intervened;"
- "morning mate . . . seems [Cash Broker 1's] cover does have some influence, people actually took notice of his 87 libor! will be back on his case again today;"
- "i hope that 6m libor has got me back in your good books!! used all my powers of persuasion on that one;-) ... think [Bank A and Bank B] must have looked at [Cash Broker A's] first suggestion . . . they both moved up 11bps to 1.10;" and
- "you have a really big fix tonight i believe? if [Cash Broker 1] sends out 6m at a more realistic level than 1.1 0 i reckon [Bank A and Bank B] will parrot him, it might mean 6m coming down a bit."

Communications between the ICAP Yen brokers and the Senior Yen Trader and among the ICAP brokers, examples of which are set forth below, reflect the ICAP brokers' willingness and significant efforts to help the Senior Yen Trader. The communications also reflect the ICAP brokers' and the Senior Yen Trader's belief that they had an impact on the Yen LIBOR fixings, that Cash Broker 1's suggested rates did not always reflect his true and objective assessment of where Yen LIBOR would fix, but were designed to help the Senior Yen Trader, and that the Senior Yen Trader highly valued the ICAP brokers' special LIBOR services and was willing to pay for them, with gratuities like a curry meal or champagne or additional commission-generating trades, or bonuses as the relationship developed over time.

October 23, 2006:

Derivatives Broker 1: Morning Lad [Cash Broker 1], On the scrounge again, if possible keep 3m the same and get 6mos as high as you can. My guy has an enormous fix on Wednesday in 6mos and will want it as high as possible. Waiting for my credit card to get returned to me from a drunken night out bowling, but will be supplying you with copious amounts of curry on it's imminent return. Cheers

October 24, 2006 (emphasis supplied):

Derivatives Broker 1: let me know a little later what you need . . . i know u want 6's high tomorrow

Senior Yen Trader: well today and tomorrow then i can breath a little!
2morrow fix is huge 400b

Derivatives Broker 1: i know you told me . . . ok as long as the futs don't get outdone by any libor moves south?

Senior Yen Trader: **... libors going up saved me one day looked like i was going to lose 50m jpy on futs vs libs**

Derivatives Broker 1: ouch!

Senior Yen Trader: **but then 6m went up a bp and i was saved well almost**

Derivatives Broker 1: **à50 curry was cheap then :-D**

Senior Yen Trader: **yes mate seriously whatever it takes bill me!**

October 24, 2006 (emphasis supplied):

Derivatives Broker 1: Realise it might be getting harder but need 6m kept as high as possible....tomorrow I have a massive fix,today just large!! Ta mate Get your curry order ready will send [Junior Broker 1] round tomorrow.

Cash Broker 1: How high above 552?

Derivatives Broker 1: **If you can get them up there and keep them there tomorrow reckon the trader from ubs Tokyo will come over and buy you a curry himself!**

October 25, 2006 (emphasis supplied):

Cash Broker 1: Depending where it sets k10 **[a restaurant] for lunch or cash would be preferable!!** Out for curry tonite Mlord

Derivatives Broker 1: K10 it is,will get [Junior Broker 1] on the case . . . any chance of 55.25 in 6mos?

Cash Broker 1: Really cant do much only dodgy ones where [Bank C] dealer on hols and [Bank B] trying to get changed. Who sets ubs libors

Derivatives Broker 1: Don't know mate,I can get [Bank A] to help but that's it

October 5, 2007 (emphasis supplied):

1st email:

Derivatives Broker 1: **Happy Friday M'Lord**, i am off Monday for the Tokyo holiday, **could you please do your best to hold 3mos and 6mos libors up as best you can for these next couple of days** (i do appreciate the pressure is downwards, but it may be quiet ahead of the us no.s today and tokyuo holiday monday). Thanks again mate. [Derivatives Broker 1]

Cash Broker 1: Me too off Monday . . . **Ill tell them to leave the same!! But these are drifting down3m shud be really 1.015....6m 1.09 if not tad lower..... Mlord libor**

2nd email:

Cash Broker 1: Do my best to hold them up but really if I put them down myself you will get 1 pct libor 3m and 6mos 1.08. **You will have to have a word with [Senior Yen Trader] warn him that they are looking softer. ... I can hang it out so long**

December 7, 2007 (emphasis supplied):

Derivatives Broker 1: Hi [Cash Broker 1], Thanks again for all your efforts, ... Can you do your best to drive these libors higher, especially 3 mos if you can and it is still well bid....**UBS had to stagger their move up but will definitely be in the count today. ... p.s Bubbly on its way with [Senior Yen Trader].**

February 29, 2008 (via text message to personal mobile phone) (emphasis supplied):

Derivatives Broker 1: If u can pls move 3m up more than 6m wud be much appreciated :-P

Cash Broker 1: What happens if they go down. 3m looked higher yesterday pm and 6m no change

Derivatives Broker 1: Make 6m go lower! They r going up. **[Senior Yen Trader] will buy you a ferrari next yr if you move 3m up and no change 6m**

Cash Broker 1: Not bad isuppose 9625 against 01625

September 25, 2008 (emphasis supplied):

Senior Yen Trader: **1m libor worries me i need it back under 70**

Derivatives Broker 1: **[Cash Broker 1] is fully aware of the importance of Mondays libors, I'll call him again this evening before I**

head off, but as he said last night (he called me at home) its **like the Dutch guy standing with his finger in the hole of the dam.**

At times, to ensure the needs of the Senior Yen Trader were met, even after he distributed his Run Thru for the morning, Cash Broker 1 re-sent his daily Run Thru with revised Suggested LIBORs to better reflect the Senior Yen Trader's requests. For example, on September 4, 2007, before Cash Broker 1 had distributed a Run Thru, the Senior Yen Trader pressured Derivatives Broker 1 as follows:

Senior Yen Trader: ... need 3m high v badly or at least unchanged have some big fixings whilst i am away
Derivatives Broker 1: ... will be on [Cash Broker 1's] case ...
Senior Yen Trader: ... mate can we try to get 3m higher today
Derivatives Broker 1: yes mate ... i will be doing all i can

Derivatives Broker 1 then sent the following email to Cash Broker 1 bearing the subject line, **"3mos libor going to the moon!"**:

Derivatives Broker 1: Hi [Cash Broker 1], Can you please send 3 mos libor out higher please. Thanks
Cash Broker 1: THESE LOOK WAY DOWN . . . 3M SHUD BE 95....
Derivatives Broker 1: Thanks [Cash Broker 1] . . . \$ cash is firmer though? Try and send out 96 if you can please
Cash Broker 1: OFF COURSE

Cash Broker 1 then distributed his morning Run Thru email, in which his Suggested LIBORs stated that three-month LIBOR fixing would be 0.96 and six-month LIBOR fixing would be 1.05. At the same time, Derivatives Broker 1 communicated via Bloomberg chats with other derivatives brokers on the Yen Desk regarding the Senior Yen Trader's request, specifically asking the Yen Desk Head to apply additional pressure to Cash Broker 1 with respect to both his three-month and six-month LIBOR suggestions:

Derivatives Broker 1: want libors up today.....big fix in 3mos so that is most important . . . thanks
Junior Broker 1: cheers [Derivatives Broker 1]
Derivatives Broker 1: ... got [Cash Broker 1's] libors thks
Junior Broker 1: lib 1m-80, 3m- 96 and 6m- 05 is what he has sent out thinks 3m is 95 and 6m 06 fyg
Derivatives Broker 1: ... try and get [Cash Broker 1] to send out a revised libor run with 3m and 6m higher please [Yen Desk Head]....ta
Yen Desk Head: will do
Derivatives Broker 1: :-) is this cash looking bid??
Yen Desk Head: **just findin out on the back of his revised libors,sent at your request** but he thinks it might be nearer 107 than 106

Since the original Run Thru apparently was not high enough to suit the Senior Yen Trader's demands, Cash Broker 1 distributed the following "Revised LIBORs" email, complying with Derivatives Broker 1's request to move his LIBOR recommendations for three-month and six-month LIBOR fixing higher than the original Run Thru (three-month changed from 0.96 to 0.98, and six-month changed from 1.05 to 1.08):

From: [Cash Broker 1]	
Sent: Tuesday, September 4, 2007 9:27 AM	
Subject:	
REVISED LIBORS	
1M	0.8
2M	0.86
3M	0.98
4M	1.02
5M	1.05
6M	1.08
9M	1.12
1YR	1.15

ii. ICAP Yen Brokers Also Contacted Traders and Submitters at Panel Banks Directly Asking for Help on LIBORs to Further Senior Yen Trader's Manipulative Scheme

Teaming with the Senior Yen Trader, Derivatives Broker 1 asked, or had his Yen Desk colleagues ask, individual panel banks directly to move their LIBOR submissions in a manner that the brokers knew would benefit the Senior Yen Trader.

October 31, 2006 (emphasis supplied):

1st message (emphasis supplied):

Senior Yen Trader: hi do you spk to [Bank D] or [Bank C]? have their 6m libors very very low thx for getting it up y/day

Derivatives Broker 1: cash boys talk to [Bank C] but their guy has been away ,will chase them today no contact with [Bank D] cash

Senior Yen Trader: ok they have probably just left the libors alone whilst he is away!

Derivatives Broker 1: they will be wiped off the bottom anyway

Senior Yen Trader: **yes evry little helps**

Derivatives Broker 1: :-)

2nd message:

Derivatives Broker 1: Morning [Cash Broker 1], Still need these libors kept as high as possible please mate. ... anything you can do to get them high will be much appreciated. Thanks

December 6, 2006:

Derivatives Broker 1 (to Senior Yen Trader): i have spoken to [Bank A] about libors,he will be the lowest ...

August 23, 2007 (emphasis supplied):

Derivatives Broker 1: [Derivatives Broker 3] does [RBS¹⁰ Yen LIBOR Back-Up Submitter] have any influence over their libor sets . . . if he does ask him to do us a favour and edge 6m up please.....think [Bank E Yen Trader] was chasing [Cash Broker 1] for a high fix as well ,so should do us all a favour . . . thanks

Derivatives Broker 3: [RBS Yen LIBOR Back-Up Submitter] is doing them this wek , he wants 6's up so will be marking them up anyway

Derivatives Broker 1: **brooliant!! they are making fortunes with these high fixings!!! :-)** thats UBS,RBS and [Bank E] + M'Lord should be ok!!

Cash Broker 1 also communicated directly with traders and submitters he knew at the panel banks to try to influence their Yen LIBOR submissions. For example, Cash Broker 1 contacted Bank F's Yen LIBOR submitter on multiple occasions, attempting to improperly influence Bank F's LIBOR submissions, after receiving instructions from Derivatives Broker 1 on behalf of Senior Yen Trader.

October 19, 2007 (emphasis supplied):

Derivatives Broker 1: want 1m and 6m libors to keep pushing down . . . 3m to hold as best we can (6m down the most important thing) . . . **same goes for next week** ,if you could just remind [Cash Broker 1] each morning

Junior Broker 1: will do thks

October 24, 2007:

Cash Broker 1: [Bank F Yen LIBOR Submitter] where will u go 3m today?

Bank F Yen Submitter: SORRY 0.93

Cash Broker 1: opps how about 90?

Bank F Yen Submitter: NO DONT WANT LIBOR TOO LOW

¹⁰ On February 6, 2013, the Commission issued an Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions against The Royal Bank of Scotland plc and RBS Securities Japan Ltd. (collectively "RBS"), finding, among other things, that RBS, through its Yen LIBOR submitters and other yen traders, attempted to manipulate Yen LIBOR, at times successfully, through multiple methods. In the Commission's Order, ICAP is identified as Interdealer Broker A. See <http://www.cftc.gov/PressRoom/PressReleases/pr6510-13>.

March 31, 2009:

1st email, with Senior Yen Trader's request:

Senior Yen Trader: 1m must come lower japanese banks haven't moved their
1m fix even though 1m tiber came down

Derivatives Broker 2: will talk to [Cash Broker 1] again now.

2nd email, from Cash Broker 1, passing along the request:

Cash Broker 1: when u have time will u move yre 1 2 and 3m libor
down?

Bank F Yen Submitter: no dont really want to start making libors to lower does
not achieve much

Cash Broker 1: ok thks [Bank F Yen LIBOR Submitter]

**b. Other Brokers on the Yen Desk Coordinated to Ensure the Senior Yen
Trader's Demands Were Met**

In the spring of 2007, Derivatives Broker 1 relocated from London to New Zealand, and was away from his duties for several months. In his absence, the Yen Desk Head and Derivatives Broker 2 took primary responsibility for brokering trades for the Senior Yen Trader and facilitating the Senior Yen Trader's continual unlawful requests. After Derivatives Broker 1 re-assumed his duties in New Zealand, the Senior Yen Trader remained his only client. Due to the geographical and time zone separation, Derivatives Broker 1 required the assistance of the Yen Desk in London to communicate the Senior Yen Trader's requests to Cash Broker 1, and to ensure that Cash Broker 1 issued the skewed Suggested LIBORs in his daily Run Thru emails.

The Yen Desk had daily internal coordination discussions via Bloomberg chats about the Senior Yen Trader's LIBOR needs. All of the brokers on the Yen Desk participated in these daily Bloomberg chats with Derivatives Broker 1. Generally, each day Derivatives Broker 1 conveyed the Senior Yen Trader's "LIBOR needs." Various junior Yen derivatives brokers (including Junior Broker 1) were assigned to communicate the Senior Yen Trader's requests to Cash Broker 1. The junior brokers then typically informed Derivatives Broker 1 of the Suggested LIBORs that Cash Broker 1 intended to include in his daily Run Thru. If Derivatives Broker 1 was dissatisfied with the LIBOR numbers, he either: (1) asked the junior brokers to instruct Cash Broker 1 to move the LIBOR numbers up or down, consistent with the Senior Yen Trader's preferences; or (2) asked the Yen Desk Head to pressure Cash Broker 1 to move his LIBOR numbers if he felt Cash Broker 1 was not cooperating. Often simultaneously, Derivatives Broker 1 maintained close communication with the Senior Yen Trader to discuss the Senior Yen Trader's trading positions and LIBOR needs.

The communications among the ICAP Yen brokers and with the Senior Yen Trader were open and detailed regarding their joint efforts to manipulate the Yen LIBOR fixings. The following are examples of such communications:

June 4, 2007 (emphasis supplied):

Yen Desk Head: what does [Senior Yen Trader] want with libors?
Derivatives Broker 1: ... **KEEP 1MTH AS LOW AS POSSIBLE PLEASE**
Yen Desk Head: **no probs ... marking 1m down at 62**
Derivatives Broker 1: **HE'LL SUCK YOUR OLD FELLA**

July 4, 2007 (emphasis supplied):

Derivatives Broker 3: anything libors, 6's look lower being told
Derivatives Broker 1: **try and hold it please at 86**
Derivatives Broker 3: **[Cash Broker 1] says his shoulders are aching holding them up!!!**
Derivatives Broker 1: **he's a strong lad,i can smell him from here!!**

July 13, 2007:

Junior Broker 1: libors matey>
Derivatives Broker 1: hi 6mos(not down!!)..high 3mos and low 1mos please
Junior Broker 1: ok.....
Derivatives Broker 1: when he tells you what he is sending out can you also ask him where he actually thinks they should be please...many thanks
Junior Broker 1: no grumbles 1m- 62.75, 3m- 77.5, 6m- 87.125, thinks 3m may be slightly lower, 77.375 and he reckons 6m is going to come at 86.75
Derivatives Broker 1: thanks mate

August 7, 2007 (emphasis supplied):

Derivatives Broker 1: ... i want 1mos held as low as possible..but would appreciate an honest opinion ... did you get what i said about libors?
Junior Broker 1: **yes 1m- he has sent out 66, really though thinks more like 66.5, 3m-82.5 and 6m- 89.25**
Derivatives Broker 1: thanks [Junior Broker 1] much appreciated

August 13, 2007 (emphasis supplied):

Derivatives Broker 3: [Cash Broker 1] is in, anything libors?
Derivatives Broker 1: high 6mos suits
Yen Desk Head: 1m .80 3m .93 6m 1.03
Derivatives Broker 1: thks
Yen Desk Head: **think he sent 6s out this high cause of [Senior Yen Trader]**

September 10, 2007 (emphasis supplied):

1st message (emphasis supplied):

Derivatives Broker 1: looking for high 3m and 6m if we can help at all ...

Yen Desk Head: ... **the boy [Cash Broker 1] did good for [Senior Yen Trader] on friday in 3s**

Derivatives Broker 1: yeah unchanged was good...**i can't get these swaps into line today without raising libors**

Derivatives Broker 1: ... the week of 25th to 28th sep ... he will be chasing you for his fixings [Yen Desk Head]..think once the imm has gone he will be looking for low libors!

2nd message (emphasis supplied):

Senior Yen Trader: once again thx libors

Derivatives Broker 1: no problem just starting to worry about how i am going to push them lower next week!!

Senior Yen Trader: no just leave em high need high at start of oct

Derivatives Broker 1: ok mate

Senior Yen Trader: then we can make a push for lower fixes

Derivatives Broker 1: gotcha ...**just give me a "wish list" at the start of each day and i will compose a beeging letter to [Cash Broker 1] after lunch.**

Senior Yen Trader: ok thx mate one thing which i don't think you can do is push them one then the other way need to be consistent ie alll lower every day or vice versa

Derivatives Broker 1: no smalls maybe but you are better looking at the bigger picture and basing your requests on the macro outlook rather than the micro :-)

January 10, 2009 (emphasis supplied):

Derivatives Broker 1: [to Derivatives Broker 2] **I hope [Senior Yen Trader] is not being too painful, he has had a storming start and is very happy with the libors [Cash Broker 1] and yourselves are managing to fudge for him (as long as he thinks you are trying!).**

c. ICAP Brokers Reaped Commissions and Bonuses and Obtained Extra Payments from UBS as a Result of Their LIBOR Services for the Senior Yen Trader

Several ICAP brokers were highly incentivized to facilitate the Senior Yen Trader's manipulative schemes. The Senior Yen Trader guaranteed the ICAP brokers' loyalty and cooperation with his manipulative schemes by ensuring that ICAP's Yen derivatives and cash brokers were well-compensated on several levels:

First, UBS, and in particular the Senior Yen Trader, were significant clients of the ICAP Yen Desk. The Senior Yen Trader steered a considerable amount of business toward Derivatives Broker 1, resulting in substantial bonuses not only for Derivatives Broker 1, but also for several other brokers on the Yen Desk, including the Yen Desk Head, based on the amount of commissions his business generated for the Desk. Beginning in June 2007, UBS paid ICAP a monthly fixed fee that averaged between 70,000 GBP and 85,000 GBP per month (US\$126,000 and US\$153,000) for brokerage services performed on behalf of the Senior Yen Trader. As a result, between April 2007 and March 2009, the Senior Yen Trader singlehandedly accounted for, on average, approximately fourteen percent (14%) of the Yen Desk's business (although at times, he accounted for as much as twenty percent (20%) of the Yen Desk's business), making him the Yen Desk's biggest individual client. UBS was the Desk's overall largest client during the relevant period, accounting for, on average, approximately twenty-three percent (23%) of the Desk's revenue between April 2007 and March 2009 (although at times, it accounted for as much as thirty percent (30%) of the Desk's revenue).

Second, during the relevant period, the Senior Yen Trader also provided considerable liquidity to the market and acted as the counterparty to many transactions facilitated by certain ICAP brokers, thus further increasing the commissions earned by the Desk. The Yen Desk earned a fixed fee from UBS, but also received commissions based on the notional value of the transactions from the counterparties to the Senior Yen Trader's trades. Because he brought significant business to the Yen Desk, losing the Senior Yen Trader's business would have been, as stated by one ICAP Yen broker, "a significant loss."

Third, at the urging of the Senior Yen Trader, due to the quickly increasing demands of Cash Broker 1 for more substantial compensation, by as early as the summer of 2007 UBS agreed to increase its monthly fee by \$9,000, at least partly in recognition of the "LIBOR services" or the "fixing service" offered to the Senior Yen Trader, which the Yen Desk Head provided to Cash Broker 1 quarterly as a bonus.

ICAP Yen brokers and the Senior Yen Trader believed that Cash Broker 1 was very effective in disseminating false Yen LIBOR information through the provision of the skewed Suggested LIBORs and his direct contacts with Yen LIBOR submitters and traders at panel banks. Initially, as the Senior Yen Trader began making his requests in late 2006, Cash Broker 1 agreed to skew his Suggested LIBORs for promises of, as noted *supra*, an occasional lunch or dinner, such as "copious amounts of curry," or "bubbly." Derivatives Broker 1 constantly used flattery to persuade the Cash Broker 1 to modify his LIBOR recommendations, referring to him in these emails as "Lord Libor," "M'Lord" and "Lord Bailiff." (In fact, as noted *supra*, Cash

Broker 1 referred to himself using the same monikers.) But, flattery was not enough. The Derivatives Broker 1, Yen Desk Head and the Senior Yen Trader also tried to appease him by giving him a trade with UBS on occasion to intermediate, for which he would earn a broker's commission. For example:

January 25, 2007:

Cash Broker 1: I hear through the vine you have a good month. Hows my bonus pot looking? Mlord libor
Yen Desk Head: will push one your way today
Cash Broker 1: Ok chief...thks And im pushing 6mos as low as I can!!

February 22, 2007:

Derivatives Broker 1 [to Cash Broker 1]: Can you get 1mos and 3 mos lower please ... UBS said he will try and do a deal with me to pay you!

Cash Broker 1's demand for greater compensation in return for his skewed Suggested LIBORs quickly escalated, and he threatened to stop providing the "LIBOR services," as the Senior Yen Trader's requests became more frequent and demanding of accommodation. As the examples below demonstrate, the Yen Desk Head matter-of-factly called Cash Broker 1's demands as requests for "kick backs," and the Senior Yen Trader recognized that Cash Broker 1 was making him "loads of money."

April 18, 2007 (emphasis supplied):

Cash Broker 1: Hi [Yen Desk Head] with ubs how much does he appreciate the yen libor scoop? It seems to me that he has all his glory etc and u guys get his support in other things. I get the drib and drabs. **Life is tough enough over here without having to double guess the libors every morning and get zipper-de-do-da. How about some form of performance bonus per quarter from your b bonus pool to me for the libor service ...**
Yen Desk Head: Lord Baliff, I would suggest a lunch over golden week.Monday or Tuesday if you are around. ... **As for kick backs etc we can discuss that at lunch and I will speak to [Senior Yen Trader] about it next time he comes up for a chat.**

April 19, 2007 (emphasis supplied):

Cash Broker 1: [Yen Desk Head] The UBS bro was that for me? Mlord
Yen Desk Head: No, ... his bro for your pad was 900 quid fyg

Cash Broker 1: [Inserts subject line “**LIBORS NO MORE**”] [Yen Desk Head] ... As far as I was concerned [Senior Yen Trader] was paying for the libor assist for my assistance. You have as far as I am concerned have charged him bro on the deal. Happy days for u. fyak all for me again!! ...

Yen Desk Head: [Cash Broker 1], **I will have a lunch with you next week and have a chat about it. I have been thinking of ways of sorting you out. If the needs be I will look into it on a bigger scale eg your salary package.**

June 7, 2007 (message sent to Derivatives Broker 1) (emphasis supplied):

Yen Desk Head: [I need] to cover [Cash Broker 1] with future bonus payments that I had to promise him ... **if you could speak to [Senior Yen Trader] out of hours and hint that [Cash Broker 1] had said he would stop giving the libor “flows” then maybe [Senior Yen Trader] could push [his supervisor at UBS] to make the payment, [Senior Yen Trader] said if it were down to him it would be paid as [Cash Broker 1] makes him loads of money and i had to commit to paying lord baliff a regular bonus because basically while you were off he said it was all over and he would not help anymore if there was not enough money in it for him...**

The Yen Desk Head and Derivatives Broker 1 pressed the Senior Yen Trader about paying Cash Broker 1 an additional bonus. The Senior Yen Trader readily agreed, and as a result of the Senior Yen Trader’s efforts within UBS to get recognition for the “LIBOR services” that Cash Broker 1 provided to him, ICAP successfully re-negotiated its fixed fee contract with UBS in July 2007 to increase its monthly fixed fee by an additional 5,000 GBP (US\$9,000). Cash Broker 1 received from the Yen Desk this amount as a quarterly bonus, and the Yen Desk retained the rest as additional bonuses and compensation for the Desk.

Periodically, when the Yen LIBOR fixing did not move in the direction he requested, the Senior Yen Trader threatened to take UBS business from ICAP. In response, Derivatives Broker 1 and Yen Desk Head urgently pressed Cash Broker 1 to modify his Suggested LIBORs. For example, on June 28, 2007, Cash Broker 1 was resisting sending a revised Suggested LIBOR reflecting the Senior Yen Trader’s preferred six-month rate, after he had already distributed the day’s Run Thru. Derivatives Broker 1 and Yen Desk Head had the following exchange (exclamation by all-capital letters in original):

Derivatives Broker 1: [Yen Desk Head] **THIS IS GETTING SERIOUS [Senior Yen Trader] IS NOT HAPPY WITH THE WAY THINGS ARE PROGRESSING HE IS GOING TO HAVE A WORD WITH [Competing Broker] TO RECTIFY THE SITUATION. CAN YOU PLEASE GET HOLD OF [Cash**

Broker 1] AND GET HIM TO SEND OUT 6 MOS L
IBOR AT 0.865 AND TO GET HIS BANKS SETTING IT
HIGH. **THIS IS VERY IMPORTANT BECAUSE HE
IS QUESTIONING MY (AND OUR) WORTH ... GET
6MOS HIGH PLEASE.**

Yen Desk Head: mailed him spoke to him, **he realises that the carrot
might go if this carries on**

Ultimately, Cash Broker 1 sent the demanded revised Run Thru with the six-month
Suggested Yen LIBOR at the level requested by the Senior Yen Trader, 0.865.

In early 2009, the Senior Yen Trader made good on his threat to take business elsewhere
when he was not completely satisfied. At the end of 2008, Derivatives Broker 1 retired for a
brief period. The Senior Yen Trader then moved some of his business to another interdealer
broker ("Broker B") because he believed Broker B was more responsive to his requests to
manipulate Yen LIBOR. Upon Derivatives Broker 1's return to work in April 2009, he restored
the relationship by ensuring that the Senior Yen Trader's Yen LIBOR requests were transmitted
to Cash Broker 1 on a regular basis:

April 28, 2009:

Senior Yen Trader: need 6m up big time when 6m goes over the turn ...

Derivatives Broker 1: ... i'll get to work on [Cash Broker 1]

Senior Yen Trader: thx ...

Derivatives Broker 1: ok with you, have you asked [Cash Broker 1] for his
opinion yet?

Senior Yen Trader: no to be honest [Derivatives Broker 2] is too busy he has
too many lines i really rarely get [Cash Broker 1's] insight
i rely on [Yen Broker at Broker B] more now

Derivatives Broker 1: ok we can remedy that :-(i'll give them a kick up the ar se
and contact [Cash Broker 1] direct

Senior Yen Trader: yeah would be better

d. ICAP Yen Brokers Used Another Cash Broker when Cash Broker 1 Was Absent

When Cash Broker 1 was not in the office, a Euro cash broker, Cash Broker 2, took over
his responsibilities, including sending out Cash Broker 1's daily Run Thru emails and
determining the Suggested LIBORs to include in the email. Cash Broker 2 had little experience
with the Yen market and relied on either information from the Yen derivatives brokers to make
his LIBOR assessments, or directions left by Cash Broker 1. (At least once he was referred to as
a "muppet" by his colleagues.) On multiple occasions, these other brokers provided false
information to Cash Broker 2 in an effort to influence his LIBOR recommendations to benefit
the Senior Yen Trader.

Cash Broker 2 typically followed the directions of the Yen Desk, with the result that his Suggested LIBORs reflected the requests of the Senior Yen Trader. At times, if necessary to change the Suggested LIBORs after Cash Broker 2 had already distributed a Run Thru for the day, the Yen Desk caused Cash Broker 2 to send out a revised Run Thru to ensure the Suggested LIBORs accurately reflected the Senior Yen Trader's requests. Derivatives Broker 1 and the Senior Yen Trader were pleased with the assistance received from Cash Broker 2, with Derivatives Broker 1 noting on occasion that the market followed Cash Broker 2's Run Thru recommendations.

For example, on July 6, 2007, after Cash Broker 2 had distributed a Run Thru, the following exchange occurred:

July 6, 2007:

Derivatives Broker 1: tibors were higher again so please get that young man [Cash Broker 2] to ramp the 6mos up
Yen Desk Head: we have asked again and will be telling everyone here around 86.5 i think we will tell him 0x6 spot is 87/86.375
Derivatives Broker 1: thanks [Yen Desk Head] ...
Yen Desk Head: we are telling [Cash Broker 2] that 6s strips out nearer 0.8675
Derivatives Broker 1: :-) like your style
Yen Desk Head: just call me singh

After this chat between the Yen Desk Head and Derivatives Broker 1, Cash Broker 2 (using Cash Broker 1's email account) sent the following email with the six-month LIBOR revised higher, from 0.86 to 0.865, to accommodate the above request:

From: Cash Broker 1 Sent: Friday, July 6, 2007 7:20 AM To: [recipient list omitted] Subject: FW: revised libor 6M 0.865
--

Cash Broker 2's assistance was noted with approval:

July 11, 2007:

Derivatives Broker 1: think we ought to vote to keep [Cash Broker 1's] cover on the libors as a permanent replacement..1m down ,3m and 6m high! Have a good day,speak on the open.
Senior Yen Trader: yes he is brilliant!
Derivatives Broker 1: :-) remember the good ones,sure there will be some poor ones!

The following communications further reflect the use of Cash Broker 2 by the Yen Desk to continue the unlawful LIBOR services of Cash Broker 1:

August 15, 2007:

1st message:

Derivatives Broker 1: yeh think the way these swaps are getting given libors are falling quickly. . . [Senior Yen Trader] needs 6m as high as [Cash Broker 1] can get away with ... when you speak to [Cash Broker 1] can you ask him what he thinks they will come in at (his run he sends out is often skewed to help [Senior Yen Trader]). i want high 6's !! ...

Yen Desk Head: [Cash Broker 1] off today and tomorrow

Derivatives Broker 1: oh christ..try and bully his colleague [Cash Broker 2] if you can [Yen Desk Head].. [Senior Yen Trader] hurting today needs all the help he can 6m

Yen Desk Head: ok ... done a number on him so fingers crossed, he is gonna send out 6s around 97, it looks more like 95 to me

2nd message:

Senior Yen Trader: am getting hammered today had to happen i suppose

Derivatives Broker 1: yeh all going wrong..sorry mate. ... [Cash Broker 1] off today and tomorrow!! [Yen Desk Head] bullying his colleague now to help out.

3rd message (emphasis supplied):

Derivatives Broker 1: [to colleague] think that may have been our doing a bit.. [Senior Yen Trader] needed them high so **our boys sent them out high and it seems people copied them.** . . to tell the truth the cash mkt was as thin as ours,so nobody really knows.

August 16, 2007 (emphasis supplied):

Cash Broker 1: **U will love these libors !! mlord**

Derivatives Broker 1: Fantastic work

Cash Broker 1: **Who knows where they might end Best mark them hightoo start with**

Derivatives Broker 1: **yeh they copied your man [Cash Broker 2] yesterday so lets hope they do the same today. Thanks mate**

September 5, 2007 (emphasis supplied):

Senior Yen Trader: any news from [Cash Broker 1]?

Derivatives Broker 1: just got in ... Take that back,the cash guy has just walked in....[Cash Broker 1] off today and tomorrow **he [Cash**

Broker 2] will put whatever we tell him ... 3m and 6m looking unchanged at the mom...

Senior Yen Trader: ok can we send out .98 again

Derivatives Broker 1: ... yes mate...the fwds are suggesting thses may go better bid thru the morning

October 5, 2007 (emphasis supplied):

Derivatives Broker 1: **[to Junior Broker 1] IF [Cash Broker 1] IS OFF TODAY [Junior Broker 1] AND THESE LIBORS COME ROARING OFF I'LL HOLD YOU PERSONALY RESPONSIBLE.....KEEP ONTO THAT OTHER MUPPET [Cash Broker 2] PLEASE IF SO !! THANKS MATE,GOOD LUCK TODAY**

e. ICAP Yen Brokers Tried to Conceal Yen LIBOR Services with Code Words

In late 2007 and early 2008, the Yen Desk Head, Derivatives Broker 1 and Cash Broker 1 became concerned that ICAP compliance might discover that they were aiding the Senior Yen Trader's attempts to manipulate Yen LIBOR. To conceal their unlawful activities, Derivatives Broker 1 began communicating by personal mobile telephones and text messages with Cash Broker 1. Derivatives Broker 1 also alerted the Senior Yen Trader about the need to be careful in their communications.

November 1, 2007:

Derivatives Broker 1: HI MATE,JUST HAD [Yen Desk Head] BACK ON RE-LIBORS,HAD A LOT OF COMPLIANCE PRESSURE RECENTLY DUE TO THE CREDIT PROBLEMS,WE BOTH NEED TO BE A LITTLE MORE SUBTLE IN OUR "VIEWS"...IE' I THINK THE FWDS ARE SUGGESTING THIS 6MOS LIBOR SHOULD BE LOWER....ETC. MY E-MAILS ETC. NEED TO BE WORDED MORE CAREFULLY

January 10, 2008 (emphasis supplied):

Derivatives Broker 1: [Senior Yen Trader] had a call from [Yen Desk Head] . . . [Cash Broker 1] getting concerned about how we are approaching him re-libors.It is nearly all the e-mails i send him,i will have to phrase my requests a lot more subtly but [Yen Desk Head] also said that you sometimes call down their box telling them to make sure [Cash Broker 1] moves certain periods certain ways.**Compliance is a big thing in London now and [Cash Broker 1] wants himself**

covered.Boxes are tapped and obviously my e-mails can be looked at.No body has siad anything but he wants to cover his backside

Senior Yen Trader: ok

March 26, 2008¹¹ (via text message to personal mobile phone):

Derivatives Broker 1: Hi mate can you knock 3m and 6m down 1bp if you can
3m and 6m down 1bp please

Cash Broker 1: Guys have compliance asking about various things ie libors

March 30, 2008 (emphasis supplied):

Derivatives Broker 1: [to Senior Yen Trader] hi mate,sorry to see the libors not off as much as we hoped.Had a brief chat with [Cash Broker 1] ... I will obviously keep on his case but he has warned me again that **compliance are all over the cash mkt again and he has to appear whiter than white....txt messages are ok but my e-mails need to worded very carefully.**At least 1m looks good!

April 10, 2008 (emphasis supplied):

Derivatives Broker 1: [to Senior Yen Trader] i spoke to [Yen Desk Head] last night to find out libors and **got a boll ocking for sending ib chats etc. regarding libors . . . compliance still coming down heavy in london.All my requests will have to be phone calls or texts....don't send anything yourself or call down any requirements over the line.** decent libors anyway ;-)

In an effort to ensure that the Senior Yen Trader's requests survived detection from any review by ICAP's compliance staff, Derivatives Broker 1 and the Senior Yen Trader also started using code words to mask their discussions about manipulating LIBOR. As shown in the examples below, Derivatives Broker 1 and the Senior Yen Trader used the words "political correctness," "arbitrage," "arb" or "arbi" to denote requests and efforts to push Yen LIBOR fixings in a particular direction on the Senior Yen Trader's behalf.

November 13, 2007 (emphasis supplied):

Derivatives Broker 1: [to Cash Broker 1] in these days of **"political correctness"** is it true that there is a fair bit of pressure holding 6 mos labor down today? I think this will probably suit.

¹¹ On this date, ICAP's Yen Desk responded to ICAP's "Information Services" Department's request for a description of the types of information that Yen brokers sent to customers. Contrary to what Cash Broker 1 believed, this request for information was not a compliance review.

January 28, 2008 (emphasis supplied):

Derivatives Broker 1: [Cash Broker 1's] libors..sees 1m and 3m coming in unchanged . . . 6m down 1/4bp....**arbi** has made him sent them out a bit higher, but not confident he'll get them up

February 21, 2008 (emphasis supplied):

Senior Yen Trader: **cu know what ineed arbitrage wise? you**

Derivatives Broker 1: high 3m low 6m [Cash Broker 1] reckons 1m could come off 1/2bp today (looks 1bp too high to him at the mom)....3m -1/8th.....6m -1/8th

Senior Yen Trader: **ok lets hope the arby works!**

Derivatives Broker 1: well he has sent the same as yesterday, but just warning us . . . when does your big 1m roll out?

f. ICAP Brokers Strategized with the Senior Yen Trader to Carry Out His Manipulative Schemes

ICAP Yen brokers' participation in the Senior Yen Trader's manipulative scheme went beyond passing along his requests and altering market reports to his benefit. The Yen brokers, in particular Derivatives Broker 1, strategized and acted in concert and as a team with the Senior Yen Trader to ensure his manipulative goals stood the best chance of success.

i. Derivatives Broker 1 Advised the Senior Yen Trader to Push UBS' Submitter to Make False Submissions

Evidencing his commitment to make sure the Senior Yen Trader's attempts to manipulate Yen LIBOR were successful, Derivatives Broker 1 focused on the rate submissions made by the Senior Yen Trader's own bank UBS. Derivatives Broker 1 kept track of UBS' Yen LIBOR submissions (all panel bank submissions are published daily) and advised the Senior Yen Trader to make sure his own LIBOR submitter at UBS was assisting in making the schemes successful.

February 27, 2008:

Derivatives Broker 1: Hi mate, hope those libors suited, [Cash Broker 1] said the just kept getting better bid throughout the morning and should have fixed a bit higher than they did.

Senior Yen Trader: ok neec low 6's relative to 3m basically

Derivatives Broker 1: yep try and move the 3m more than the 6m..[Cash Broker 1] knows what we are after, will remind him again later...should push that front lib/tib out you can help yourself out a bit with these libors, you are at the low end of 1m 3m and 6m, but you can afford to move 6m up 2bps

without affecting the fix ie; you will still be cut off the bottom for fixing purposes, but you will affect 1m and 3m if you can move them up (you were 1 of the very few that never moved up yesterday. Try and have a word with [UBS Yen LIBOR Submitter]

April 25, 2008 (emphasis supplied):

Derivatives Broker 1: you need to make sure [UBS Yen LIBOR Submitter] doesn't move these up where he was calling them.....don't want all the hard work getting shot away by your own bank.

Senior Yen Trader: i know i am trying

Derivatives Broker 1: it will be rather ironic if [Cash Broker 1] and [Yen Broker at Broker B] do their best and [UBS Yen LIBOR Submitter] shoots you in the foot

Senior Yen Trader: **yeah just bought him a coffee!**

Derivatives Broker 1: **:-D could be the cheapest bribe of your life!**

May 29, 2008:

Derivatives Broker 1: if [UBS Yen LIBOR Submitter] is marking his 0/6's there you are going to have to work hard on his libor sets.....if [Cash Broker 1] is doing his best to get them low and your own bank fixes high!

Senior Yen Trader: i knoww mate we are holding 6m but bring 3m down

Derivatives Broker 1: ... [Cash Broker 1] has knocked 3m down small (already v low and says if it goes any further he will lose credibility) and 6m down another 1/2bp

Senior Yen Trader: thx mate

ii. ICAP Derivatives Broker 1 Was More Than Just a Conduit for Manipulative Requests; He Was an Active Conspirator

In the summer of 2009, Derivatives Broker 1 partnered with the Senior Yen Trader, helping him to strategize on broader, long-term schemes to manipulate Yen LIBOR and ensure his manipulative goals were achieved. These schemes, which the Senior Yen Trader referred to as the "Turn Campaign" and "Operation 6M," began in June 2009.¹² The Senior Yen Trader informed Derivatives Broker 1 of his multi-pronged efforts to manipulate six-month Yen LIBOR over the summer of 2009, first by pushing six-month Yen LIBOR artificially high throughout the month of June, then forcing it to "collapse" by late summer.

¹² The Commission made detailed findings concerning the Turn Campaign and Operation 6M, including the role of ICAP and other interdealer brokers, in the Order against UBS at pp. 29-36.

Derivatives Broker 1 conspired with the Senior Yen Trader in this effort, aiding him in working with other banks that were willing to participate in the scheme, and pushing other ICAP brokers, including Cash Broker 1, to provide assistance by “chasing” after other banks and issuing the skewed Suggested LIBORs.

The following are examples of communications regarding these schemes:

June 2, 2009:

1st message:

Senior Yen Trader: pls talk to [Cash Broker 1] re [Bank B]

Derivatives Broker 1: already e-mailed and texted earlier busy trying to talk to [Cash Broker 1] on your behalf mate, that's why i didn't get the 0/6's 11th down to you

Senior Yen Trader: np once these 6m fras are out the way i'll need 6m to collapse mid aug

Derivatives Broker 1: not until after the first couple of weeks in july though?

Derivatives Broker 1: ok gotcha

Senior Yen Trader: well i'll try to trade out of them once people see the 6m go up ...

Derivatives Broker 1: ... if i start bugging [Cash Broker 1] now he'll have the ache with it before we get to the crunch time...i have the 17th noted down to have a chat and to get him mentioning the turn to his accounts that gives us plenty of time to get people thinking

Senior Yen Trader: thx

2nd message:

Derivatives Broker 1: [to Cash Broker 1] Hi mate, Do you have much contact with Bank B? just wondering why he is moving his 3m up so aggressively, seems to up it one day lower it the next! Arbi pressure seems to be pushing 1m and 3m lower during tokyo time. Any views gratefully accepted. [Derivatives Broker 1]

June 16, 2009 (emphasis supplied):

Derivatives Broker 1: Good morning mate.....**the "turn campaign" begins today.** Will put an e-mail together at lunchtime to [Cash Broker 1].

Senior Yen Trader: thx

June 23, 2009 (emphasis supplied):

Senior Yen Trader: i cld do with unch in 3m all it does is put pressure on tiber

Derivatives Broker 1: yeah [Cash Broker 1] hasn't moved his libors for about 8 days now

Senior Yen Trader: as long as 6m goes up over the turn ... 6m is huge for me on monday ...

Derivatives Broker 1: i know mate, i have been putting **arbi** pressure on [Cash Broker 1] and [Yen Desk Head] . . . **would help your cause to also speak to [Yen Desk Head] on friday regarding the turn squeeze and its importance . . . i will remind you. . .**

Senior Yen Trader: thanks i will get [Yen Broker at Broker B] on the case too **remind me to get in touch with [Bank G Yen LIBOR Submitter]**

Derivatives Broker 1: **yeah need to pull out the big guns for this one**, don't let [Bank G Yen LIBOR Submitter] forget either :-)es

June 24, 2009 (emphasis supplied):

Derivatives Broker 1: Morning [Senior Yen Trader], Rbs must have had some fixings, not helping

Senior Yen Trader: he on drugs for once i just want them static and they are falling! ... pls try to keep 1y low on screen mate yeah i just need thgis 6m gap for 2weeks]

Derivatives Broker 1: will do my best mate

Senior Yen Trader: then they can all go down hopefully tiber will stay high **operation 6m.**

Derivatives Broker 1: ;-)

June 29, 2009 (emphasis supplied):

1st message:

Senior Yen Trader: that 6m was a disaster for me i need [Cash Broker 1] to try and get those who didn't move higher

Derivatives Broker 1: **he has already gone round some of the fixers questioning their sets....i spoke to him late last night. He has chased them and cannot understand their motives.**Its not even the rbs and [Bank D's] of the world that fcked us he has no influence on Bank C, would have spoken to [Bank H] but the guy is pretty stubborn and reckons he's always right.

Senior Yen Trader: [Bank C] [Yen Broker at Broker B] is talking to i reckon i maybe able to get another favour from [Bank G Yen LIBOR Submitter] oh well you can't win em all i guess the problem was the fall immediately before the turn

Derivatives Broker 1: ok [Cash Broker 1] has spoken with [Bank H] and [Bank E]
not sure about [Bank B]

Senior Yen Trader: yeah [Bank B] is one that can really help

2nd message:

Derivatives Broker 1: very important arbitrage flow today on the libors . . .
looking for 3m to go up 1/2bp (tabor up 1bp) and 6m to go
up at least 2bps (dec/jan turn)...please acknowledge you
have got me on this mate.

Junior Broker 2: ok will have a word with [Cash Broker 1] when he's in

Derivatives Broker 1: thanks is important

3rd message (via text message to Cash Broker 1's personal mobile phone):

Derivatives Broker 1: Morning mate, its turn day! 3m tabor up 1 bp 6m up 0.5 bp
arbitrage looking for 3m libor up 0.75 and 6m up at least
2bp. Got rather a large int every little helps. Thanks mate.

4th message (Responding to Cash Broker 1's daily Run Thru email containing
Suggested LIBORs):

Derivatives Broker 1: Thanks [Cash Broker 1]

By the end of July, the Senior Yen Trader and Derivatives Broker 1 shifted their efforts to lowering six-month Yen LIBOR in August to benefit his derivatives trading positions that were due to reset in mid-August. Derivatives Broker 1 advised the Senior Yen Trader on how to use his manipulative efforts to move the Yen LIBOR in the direction they sought without being too obvious to the market.

July 22, 2009 (emphasis supplied):

Senior Yen Trader: 11th aug is the big date i still have lots of 6m fixings till
the 10th

Derivatives Broker 1: christ keeps getting extended started off as 14th of this
month:-)

Senior Yen Trader: i know

Derivatives Broker 1: **if you drop your 6m dramatically on the 11th mate, it
will look v fishy**, especially if [Bank I] and [Bank G] go
with you. **I'd be v careful how you play it**, there might be
cause for a drop as you cross into a new month but a couple
of weeks in might get people questioning you.

Senior Yen Trader: don't worry **will stagger the drops ie 5bp then 5bp**

Derivatives Broker 1: ok mate, don't want you getting into sh it

Senior Yen Trader: us then [Bank G] then [Bank I] then us then [Bank G] then
[Yen Bank I]

Derivatives Broker 1: **great the plan is hatched** and sounds sensible

July 23, 2009 (emphasis supplied):

Derivatives Broker 1: you [UBS] ought to start moving your 6m down a little now as you won't affect the fix, then if you jump down 5bps thereafter it will have more of an impact.
Senior Yen Trader: yeh next week
Derivatives Broker 1: you can go about 4bps now and not move it
Senior Yen Trader: when our friend leaves everyting will be much easier
Derivatives Broker 1: ;-) **nice knowing you have the 3 top fixers all onside in the 6m it can really shift it if the arbi kicks in**
Senior Yen Trader: yeah ... hopefully we can put 3m tabor back up on monday
Derivatives Broker 1: reckon its looking that way . . .
Senior Yen Trader: [my supervisor] was so pissed off
Derivatives Broker 1: **looking closely at that 6m panel there are only 5 banks over 66 so you'll need to start getting down below that to have a decent impact, thats why a 3 or 4bp gradual move next week will not look conspicuous before the date the arbi really needs to shift.**

g. ICAP Brokers Tried to Keep UBS Business by Offering UBS Unlawful LIBOR "Services" After the Senior Yen Trader Left UBS

In September 2009, the Senior Yen Trader left UBS, and in January 2010 he began working at another panel bank as a Yen derivatives trader. The Senior Yen Trader's departure from UBS caused great concern for the Yen Desk, as their trading volume tied to the fixed fee paid by UBS declined and they anticipated a significant loss in revenue as a result. As the Yen Desk Head noted in a September 9, 2009 chat regarding the departure of the Senior Yen Trader:

"obviously we still have a fixed fee in place with ubs Tokyo ... and [Cash Broker 1] gets a small percentage cause we always hassle him for cash manouevres ... our fixed fee gonna go to zip ... disaster can see our 75k amonth going to 25 ... "

During the fall of 2009, Derivatives Broker 1 continued to work for UBS, servicing other Yen traders who took responsibility for the Senior Yen Trader's outstanding trading positions. In a bid to keep UBS' business, Derivatives Broker 1 repeatedly offered to a UBS Yen Trader who had worked closely with the Senior Yen Trader ("UBS Yen Trader 2") the services of Cash Broker 1 for influencing the Yen LIBOR fixings. The following demonstrate the efforts he took to maintain the relationship with UBS:

August 3, 2009:

Derivatives Broker 1: [to UBS Yen Trader 2] ... I know what you need in terms of libors and will let you know what my cash guru in london honestly feels as to their movements each day....he has his "arbitrage" instructions!

September 10, 2009:

Derivatives Broker 1: Happy friday mate . . . libors still heading in the right direction.
UBS Yen Trader 2: good mng monday is the d-day
Derivatives Broker 1: big fix?
UBS Yen Trader 2: yeah both 3s and 6s
Derivatives Broker 1: low in both?
UBS Yen Trader 2: ye
Derivatives Broker 1: ok will call [Cash Broker 1] on the train into work [UBS Yen Trader 2], you realise that you have the ability to influence the 3m fix, you are currently sitting at the upper end of the range. The 6m will have to come down to others as you are already v low.
UBS Yen Trader 2: yep
Derivatives Broker 1: i'll remind you to chase your cash boys as well:-)
UBS Yen Trader 2: cool :-) on monday
Derivatives Broker 1: yes

October 21, 2009:

UBS Yen Trader 2: i dont need to be speaking to ICAP ldn just for the libors sake do i to get the timely updates our guys negotiating new bro, think icap trying to make case about their good libor indications
Derivatives Broker 1: i think you do need to talk to them ... mainly for [Cash Broker 1's] libor calls and influence. He can save you a lot of money by getting certain accounts to move to our favour and often calls the libor moves very accurately. [Yen Desk Head] pays [Cash Broker 1] a monthly amount to keep the flow of info coming and to keep him onside. ... [Cash Broker 1] has the ability to save you lots every month ...
UBS Yen Trader 2: ok

h. ICAP Continued to Aid the Senior Yen Trader After He Moved from UBS to Another Panel Bank

When the Senior Yen Trader began trading for Bank B in early 2010, Derivatives Broker 1 resumed his relationship with the Senior Yen Trader. Derivatives Broker 1 and Cash Broker 1 continued to help the Senior Yen Trader try to manipulate Yen LIBOR, until the Senior Yen Trader was terminated by Bank B in the fall of 2010.

During this period, on at least a few occasions, the Senior Yen Trader also sought the assistance of a third broker in London who worked on another ICAP brokering desk, focusing mainly on Sterling-based transactions ("Sterling Broker"), in his attempts to manipulate Yen

LIBOR. The Senior Yen Trader knew the Sterling Broker from when both previously worked at RBS. The ICAP Sterling Broker was a friend of the RBS Yen LIBOR Submitter, and readily agreed to help the Senior Yen Trader by asking the RBS Yen LIBOR Submitter to make submissions that would benefit the Senior Yen Trader. The RBS Yen LIBOR Submitter accommodated these requests.

March 3, 2010 (emphasis supplied):

1st message:

Senior Yen Trader:

i really need a low 3m jpy libor into the imm any favours you can get with the due at rbs would be much appreciated even if he on;ly move 3m down 1bp from 25 to 24

Sterling Broker:

i'll give him a nudge later, see what he can do

Senior Yen Trader:

thanks mate really really would appreciate that

Sterling Broker:

haven't seen him since i left so might buy him a steak to catch up

Senior Yen Trader:

yeah ... i have a huge fix on the imm so if he moves down 1bp now and leaves it that would be great

2nd message :

Sterling Broker:

can i pick ur brain?

RBS Yen Submitter:

yeah

Sterling Broker:

u see 3m jpy libor going anywhere btween now and imm?

RBS Yen Submitter:

looks fairly static to be honest , poss more pressure on upside , but not alot

Sterling Broker:

oh we hve a mutual friend who'd love to see it go down, no chance at all?

RBS Yen Submitter:

haha [Senior Yen Trader] by chance

Sterling Broker:

shhh

RBS Yen Submitter:

hehehe , mine should remain flat , always suits me if anything to go lower as i rcve funds

Sterling Broker:

gotcha, thanks, and, **if u cud see ur way to a small drop there might be a steak in it for ya, haha**

RBS Yen Submitter:

noted ;-)

Sterling Broker:

8-)

3rd message sent the following day:

RBS Yen LIBOR Submitter: Libor lower ;-)

May 13, 2010 (emphasis supplied):

Sterling Broker:

alloo, can i just chk ur leaving urs unch?

RBS Yen Submitter:

oh yes[,] might even just go lower for the fun of it :-)

Sterling Broker:

really, how much

RBS Yen Submitter: **Know [sic] unchanged but i knew [Senior Yen Trader] would get excited [sic] by that**
Sterling Broker: ha

By mid-2010, Cash Broker 1 expressed the belief that his ability to influence the Yen market had waned. Despite this, Derivatives Broker 1 encouraged and aided in the Senior Yen Trader's ongoing conduct and continued to push Cash Broker 1 to assist the Senior Yen Trader.

June 2, 2010:

Derivatives Broker 1: Hi mate, no change libors, you leaving them until June rolls? [Cash Broker 1] has 6m turn at the end of the month priced at 0.5bps, says he could move his suggestion by up to 1.5bps but is doubtful whether anyone will listen. He will start to bring turn conversations in with a couple of his guys next week, reckons its far too early to go down that route yet.

Senior Yen Trader: think so ok thx

June 22, 2010:

Derivatives Broker 1: Hi [Senior Yen Trader], soory mate forgot to remind you to talk to [Sterling Cash Broker], hope your memory was better than mine. Rbs helped in the 3m anyhow

Senior Yen Trader: that was [Sterling Cash Broker]

Derivatives Broker 1: good;-) ...

Senior Yen Trader: ... i hope the arbi will push libors up

Derivatives Broker 1: yeah, have had words....[Cash Broker 1] not convinced people will listen, but said his arbi view, could see his suggestion up at 0.46 (did stress not sure anyone will take any notice, but the turn had been discussed).

Senior Yen Trader: what did pople say when they discussed it?

Derivatives Broker 1: was emphasising the \$ turn, people a little uncommital on the yen.

i. ICAP Brokers Aided and Abetted Attempts to Manipulate by Yen Traders at Other Panel Banks

Although ICAP's Yen brokers engaged in unlawful conduct primarily at the behest of the Senior Yen Trader, in a limited number of other instances, various Yen brokers on both the Yen and Cash Desks attempted to influence Yen LIBOR submissions for the purposes of manipulating Yen LIBOR on behalf of other Yen derivatives traders in the market. For example, in December 2010, Cash Broker 1 attempted to develop a relationship with Bank D Yen Trader, an active trader who appeared to be becoming more dominant in the wake of Senior Yen Trader's departure. Cash Broker 1 offered services similar to those provided to the Senior Yen Trader by proposing to influence Yen LIBOR submitters to make submissions that could benefit

Bank D Yen Trader. Thus, Cash Broker 1 offered to contact Yen LIBOR submitters on behalf of the Bank D Yen Trader. Cash Broker 1's efforts on behalf of Bank D continued through January 2011.

December 1, 2010:

Bank D Yen Trader: Hope this will push libors down
Cash Broker 1: ok we need lower libors tomorrow yes?
Bank D Yen Trader: Yeah...
Cash Broker 1: ok ill work some magic for tomorrow:-)
Bank D Yen Trader: I want 3. And 6m libor a lot lower... ? How?
Cash Broker 1: we wait and see, tomorrow lower friday a little bit more but ill do my best
Bank D Yen Trader: Yeah... I think yen libors shud be lower but ppl tend to keep them higher whereas usd libors ppl looks like manipulately put them higher
Cash Broker 1: ill work some magic tomorrow hopefully, 3m 19 6m 35
Bank D Yen Trader: Mate... 3mth is already below 19
Cash Broker 1: mistype 18
Bank D Yen Trader: That will be nice.
Cash Broker 1: ok i am on the case for u
Bank D Yen Trader: Thank u mate

December 20, 2010:

1st message:
Cash Broker 1: mrng [Bank D Yen Trader], hows things? ... libors unchned. ... still after low 3m?
Bank D Yen Trader: morning. yeah ... i still like it to be as low as possible
Cash Broker 1: ok still working on it for you
Bank D Yen Trader: thank you

2nd message:
Bank D Yen Trader: i now wud like 6m libor to go up a lot
Cash Broker 1: ok tomorrow i move

December 22, 2010:

Cash Broker 1: 3m .1875 6m 349 :-)
Bank D Yen Trader: thx mate so 6m libor highr finally? ...
Cash Broker 1: ... yes ... i amworking my magic
Bank D Yen Trader: thank you! ...
Cash Broker 1: sorry [Bank D Yen Trader], people slow to change but i am still working on it regarding libors
Bank D Yen Trader: Thx try

4. Inadequate Controls and Supervision Allowed Broker Misconduct to Continue for Years

During the relevant period, ICAP failed to implement adequate internal controls and procedures to govern its Yen brokers' communications and interactions with clients and prospective clients. Nor did it adequately supervise and oversee its Yen brokers and the Yen and Cash Desks.

ICAP plc, a global entity, had set up a regional-based system of policies, procedures, and controls that applied to its entire family of subsidiaries during the relevant time period. ICAP plc's subsidiaries allocated compliance employees by region. ICAP was part of the Europe, Middle East and Africa ("EMEA") region. Although ICAP had only a dedicated chief compliance officer, he was supported by twelve other compliance employees among ICAP plc's EMEA-based subsidiaries. This system of compliance failed to detect and deter the wrongful conduct of the ICAP brokers.

Through this system of compliance, ICAP did not have adequate internal controls, policies and procedures to guide and monitor Yen brokers in their communications with clients, or the provision of market information or market color to clients and others. Furthermore, ICAP had no procedures for approval of the dissemination of market information, or for review and verification of the basis for the market information being disseminated by ICAP brokers. Accordingly, Cash Broker 1 was able to send out the skewed Suggested LIBORs in his Run Thrus without detection.

Within ICAP, the Yen and Cash Desks were inadequately supervised. The Yen brokers, including the Yen Desk Head, worked with minimal supervision from senior ICAP management. Cash Broker 1, the only Yen cash broker at ICAP, operated independently with little to no supervision from the head of the Cash Desk. Likewise, ICAP left compliance oversight to the Yen and Cash Desk Heads who were expected to report any suspicious conduct to ICAP's compliance officer. This system of compliance and supervision was of course all but useless as the Yen Desk Head was complicit in the misconduct taking place on the Yen Desk.

These compliance flaws were exacerbated by the fact that the Yen Desk was not perceived as a potential compliance risk, and thus was not subjected to any compliance reviews or audits during the relevant period, resulting in no reviews or audits of the Yen Desk for more than four years. ICAP Securities Limited, another EMEA entity, was responsible for the audit and risk management functions at ICAP, and determined which of ICAP's brokering desks required an audit. While the Cash Desk was audited twice during the relevant period, the audit included only a sampling of broker communications, and accordingly, Cash Broker 1's misconduct was not discovered. If an audit had been conducted of the Yen Desk, and the internal and external communications of the Yen and Cash Desks had been reviewed, ICAP likely would have discovered that: (1) the Senior Yen Trader was the exclusive client of Derivatives Broker 1 and a significant source of revenue for the Yen Desk, creating potential conflicts of interest; (2) the ICAP Yen brokers engaged in sustained efforts to manipulate Yen LIBOR on behalf of the Senior Yen Trader; and (3) the "LIBOR services" for which ICAP

successfully negotiated a special bonus for Cash Broker 1 were in fact the dissemination of false market information intended to benefit the Senior Yen Trader.

ICAP's lack of specific internal controls and procedures relating to external communications, and distinguishing between permissible and impermissible market information provided by its Yen brokers to clients and others, as well as its overall lax supervision of the Yen and Cash Desks, allowed the misconduct to continue unabated throughout the relevant period.

IV.

LEGAL DISCUSSION

A. **ICAP Knowingly Caused Certain Panel Banks to Make False, Misleading or Knowingly Inaccurate Reports Concerning Yen Borrowing Costs in Violation of Section 9(a)(2) of the Act**

Section 9(a)(2) of the Act makes it unlawful for any person "knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce" 7 U.S.C. § 13(a)(2) (2006); *U.S. v. Brooks*, 611 F.3d 678, 691-93 (5th Cir., 2012) *cert. denied*, 2013 U.S. Lexis 434 (U.S. Jan. 7, 2013); *United States v. Valencia*, 394 F.3d 352, 354-355 (5th Cir. 2004); *see also CFTC v. Johnson*, 408 F. Supp. 2d 259, 267 (S.D. Tex. 2005) (same).

At times, throughout the relevant period, certain ICAP brokers knowingly caused to be delivered through the mails or interstate commerce false or misleading or knowingly inaccurate reports concerning Yen bank borrowing rates, through the form of Suggested LIBORs, which is market information that affects or tends to affect the fixing or pricing of Yen LIBOR, a commodity in interstate commerce. Each business day, Yen panel banks, through the transmission of electronic spreadsheets to Thomson Reuters, made Yen LIBOR submissions in contribution to the daily fixing of Yen LIBOR for various tenors through the mails or interstate commerce. Yen LIBOR panel banks' submissions were delivered through the mails or interstate commerce by the daily dissemination and publication globally, including into the United States, of the panel banks' submissions as well as the daily official Yen LIBOR fixing by Thomson Reuters on behalf of the BBA and by other third party vendors. The panel banks' submissions are used to determine the official published rates for Yen LIBOR, which are calculated based on a trimmed average of the submissions.

The Yen LIBOR panel banks' submissions contain market information concerning the costs of borrowing unsecured funds in Yen in particular tenors, the liquidity conditions and stress in the money markets, and the panel banks' ability to borrow Yen in the London interbank market. Such market information affects or tends to affect the prices of commodities in interstate commerce, including the daily rates at which Yen LIBOR is fixed.

Certain ICAP Yen brokers understood and expected that many of the Yen panel banks relied on market information from those ICAP brokers concerning the Yen borrowing rates in the London interbank market. Indeed, ICAP brokers provided oral or written Yen LIBOR predictions, *i.e.*, the “Suggested LIBORs,” that reflected their unbiased and honest assessment of Yen borrowing costs in the interbank market. However, to benefit certain ICAP clients, in particular the Senior Yen Trader, and to assist their efforts to attempt to manipulate the fixing of Yen LIBOR on their behalf, ICAP Yen brokers often knowingly disseminated false, misleading and knowingly inaccurate market information to the Yen Panel banks through two primary means: (1) Cash Broker 1 or others provided skewed Suggested LIBORs, through the daily Yen LIBOR Run Thru emails or oral communications with submitters or traders at the Yen LIBOR panel banks; and (2) ICAP brokers directly pressured Yen LIBOR submitters and traders at panel banks to submit certain rates, that were skewed to reflect rates beneficial to the Senior Yen Trader and at times other traders. At times, certain Yen panel banks used ICAP’s skewed Suggested LIBORs in determining and making their Yen LIBOR submissions to the BBA. As a result, those Yen LIBOR submissions were false, misleading or knowingly inaccurate because the panel banks’ submissions purported to reflect the panel banks’ perceived costs of borrowing Yen in the interbank market but in reality, reflected in whole or in part the rates that benefited the trading positions of ICAP’s clients.¹³

Accordingly, by certain brokers’ actions designed and intended to benefit clients and themselves, ICAP, through these brokers and a desk manager, knowingly caused the panel banks to deliver through the mails or interstate commerce false or misleading or knowingly inaccurate market information that affects or tends to affect a commodity in interstate commerce, including Yen LIBOR and violated Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2) (2006).

B. ICAP Manipulated Yen LIBOR at Times for Certain Tenors

Together, Sections 6(c), 6(d) and 9(a)(2) of the Act prohibit acts of manipulation or attempted manipulation. Section 9(a)(2) of the Act makes it unlawful for “[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity . . .” 7 U.S.C. § 13(a)(2) (2006). Section 6(c) of the Act authorizes the Commission to serve a complaint and provide for the imposition of, among other things, civil monetary penalties and cease and desist orders if the Commission “has reason to believe that any person . . . is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, ... or otherwise is violating or has violated any of the provisions of [the] Act . . .” 7 U.S.C. § 9 (2006). Section 6(d) of the Act is substantially identical to Section 6(c). *See* 7 U.S.C. § 13b (2006).

Manipulation under the Act is the “intentional exaction of a price determined by forces other than supply or demand.” *Frey v. CFTC*, 931 F.2d 1171, 1175 (7th Cir. 1991). The

¹³ In finding that certain Yen LIBOR panel banks made submissions that mirrored ICAP’s Suggested LIBORs, the Commission is not addressing here whether such banks knowingly made false, misleading or knowingly inaccurate Yen LIBOR submissions.

following four elements must be met, by a preponderance of the evidence, to show a successful manipulation has occurred:

- (1) the [respondent] had the ability to influence market prices;
- (2) the [respondent] specifically intended to do so;
- (3) artificial prices existed; and
- (4) the [respondent] caused an artificial price.

In re Cox, [1986-1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,786 at 34,061 (CFTC July 15, 1987). The test for manipulation, however, is a practical one:

We think the test of manipulation must largely be a practical one if the purposes of the Commodity Exchange Act are to be accomplished. The methods and techniques of manipulation are limited only by the ingenuity of man. The aim must be therefore to discover whether conduct has been intentionally engaged in which has resulted in a price which does not reflect basic forces of supply and demand.

Cargill v. Hardin, 452 F.2d 1154, 1163 (8th Cir. 1971).

“[I]ntent is the essence of manipulation.” *Indiana Farm Bureau Cooperative Ass’n, Inc.*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep (CCH) ¶ 21,796, at 27,282 (CFTC Dec. 17, 1982). The manipulator’s intent separates “lawful business conduct from unlawful manipulative activity.” *Id.* at 27,283. To prove the intent element of manipulation, it must be shown that ICAP “acted (or failed to act) with the purpose or conscious object of causing or effecting a price or price trend in the market that did not reflect the legitimate forces of supply and demand.” *Id.*

The Commission has observed that “intent must of necessity be inferred from the objective facts and may, of course, be inferred by a person’s actions and the totality of the circumstances.” *In re Hohenberg Bros.*, [1975-1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,271 at 21,477 (CFTC Feb. 18, 1977). “[O]nce it is demonstrated that the alleged manipulator sought, by act or omission, to move the market away from the equilibrium or efficient price – the price which reflects market forces of supply and demand – the mental element of manipulation may be inferred.” *Indiana Farm Bureau*, ¶ 21,796 at 27,283. “It is enough to present evidence from which it may reasonably be inferred that the accused ‘consciously desire[d] that result, whatever the likelihood of that result happening from his conduct.’” *Id.* (quoting *U.S. v. United States Gypsum Co.*, 438 U.S. 442, 445 (1978)). A profit motive may also be evidence of intent, although profit motive is not a necessary element of an attempted manipulation. See *In re DiPlacido* [2007-2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,970, at 62,484 (CFTC Nov. 5, 2008) (citing *In re Hohenberg Bros. Co.*, ¶20,271 at 21,478), *aff’d*, 364 Fed. Appx. 657 (2d Cir. 2009).

An artificial price (also termed a “distorted” price) is one “that does not reflect market or economic forces of supply and demand.” *Cox*, ¶ 23,786 at 34,064; *Indiana Farm Bureau*, ¶ 21,796 at 27,288 n. 2. As the Commission noted with approval in *DiPlacido*, ¶ 30,970 at 62,484 (quoting *Indiana Farm Bureau*, ¶ 21,796 at 27,300 (Commissioner Stone concurring)), a

Commissioner has commented: “[t]his is more an axiom than a test.” In determining whether an artificial price has occurred:

[O]ne must look at the aggregate forces of supply and demand and search for those factors which are extraneous to the pricing system, are not a legitimate part of the economic pricing of the commodity, or are extrinsic to that commodity market. When the aggregate forces of supply and demand bearing down on a particular market are all legitimate, it follows that the price will not be artificial. On the other hand when a price is effected by a factor which is not legitimate, the resulting price is necessarily artificial. Thus, the focus should not be as much on the ultimate price as on the nature of the factors causing it.

Indiana Farm Bureau, ¶ 21,796 at 27,288 n. 2. *See also DiPlacido*, ¶ 30,970 at 62,484 (finding that the placement of uneconomic bids or offers results in artificial prices because those prices are not determined by the free forces of supply and demand on the exchange”).

Causation of artificial prices is established when it is demonstrated that artificial market prices resulted from the conduct of a trader, or group of traders acting in concert, rather than legitimate forces of supply and demand. *See Cargill, Inc. v. Hardin*, 452 F.2d 1154, 1171-72 (8th Cir. 1971) (price squeeze “intentionally brought about and exploited by Cargill”); *Cox*, ¶ 23,786 at 34,067 (proof of causation requires the Division to show that “the respondents’ conduct ‘resulted in’ artificial prices”).

There can be multiple causes of an artificial price. *DiPlacido*, ¶ 30,970, at 62,485. The manipulator’s actions need not be the sole cause of the artificial price. “It is enough for purposes of a finding of manipulation in violation of Sections 6(b) and 9 of the Act that respondents’ action contributed to the price [movement].” *In re Kosuga*, 19 A.D. 603, 624 (1960). *See also Cox*, ¶ 23,786 at 34,066 (recognizing there can be multiple causes of an artificial price and holding that a charge of manipulation can be sustained where respondents’ acts are a proximate cause of the artificial price).

Here, ICAP brokers communicated on a daily basis with banks that participated on the Yen LIBOR panel and made submissions that purported to reflect their assessments of their respective banks’ costs of borrowing unsecured funds in the London interbank market for Yen across tenors. The official LIBOR fixings are calculated using a trimmed average methodology applied to the rates submitted by the panel banks. By virtue of this methodology, panel banks had the ability to influence or affect the rate that would become the official Yen LIBOR fixing for any tenor. Accordingly, if the ICAP brokers could influence the rates submitted by the panel banks, then the ICAP brokers had the ability to influence or affect the rate at which Yen LIBOR would be fixed. As evidenced above, Yen LIBOR panel banks relied upon the market information about Yen borrowing rates and Suggested LIBORs provided by ICAP Yen brokers, and, at times, at least certain panel banks used the rates suggested the ICAP Yen brokers in determining and making their submissions. As a result, at times, certain Yen LIBOR panel banks made false or misleading Yen LIBOR submissions.

As evidenced by the extensive communications and other facts set forth above, in causing certain panel banks at times to make false or misleading Yen LIBOR submissions, ICAP brokers specifically intended to affect the daily Yen LIBOR fixing for certain tenors, including one-month, three-month, and six-month. Their intent is also evidenced by their motivation to lure and keep the significant business of the Senior Yen Trader and other derivatives traders by making extensive efforts to ensure that Yen LIBOR fixed at rates that benefited their clients' derivatives trading positions.

As a result of ICAP brokers' influence on the rates submitted by panel banks, at times some of the panel banks made Yen LIBOR submissions, whether knowingly or not, that did not reflect their bank's costs of borrowing unsecured funds in the London Yen interbank market but instead reflected rates beneficial to the trading positions of the Senior Yen Trader and other traders. Accordingly, through ICAP brokers' actions, those Yen LIBOR submissions acted as illegitimate factors in the pricing of the daily Yen LIBOR fixings for certain tenors with the result that the official Yen LIBOR for certain tenors were artificial on certain occasions. Thus, the ICAP brokers' actions were a proximate cause of the artificial Yen LIBOR fixings.

Accordingly, on certain occasions, ICAP, through the acts of certain brokers and a desk manager, manipulated Yen LIBOR for certain tenors, a commodity in interstate commerce, in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act.

C. ICAP Attempted to Manipulate Yen LIBOR

To prove attempted manipulation, two elements are required: (1) an intent to affect the market price; and (2) an overt act in furtherance of that intent. *See In re Hohenberg Bros. Co.*, ¶ 20,271 at 21,477 (CFTC Feb. 18, 1977); *CFTC v. Bradley*, 408 F. Supp. 2d 1214, 1220 (N.D. Okla. 2005). The intent standard is the same as that for manipulation. *See Indiana Farm Bureau and Hohenberg Bros., supra.*

As evidenced and found above, certain ICAP Yen brokers each specifically intended to affect the rate at which the daily LIBOR for Yen would be fixed to benefit the derivatives trading positions of traders at panel banks, particularly the Senior Yen Trader at UBS. Each instance of the following constitutes overt acts in furtherance of ICAP's Yen brokers' intent to affect the Yen LIBOR fixings: (1) the ICAP brokers' coordination with derivatives traders at certain panel banks, particularly the Senior Yen Trader; (2) the ICAP brokers' internal coordination about rates that would be beneficial to the traders' derivatives trading positions; (3) the ICAP brokers' dissemination of false and misleading Suggested LIBORs skewed to reflect rates beneficial to traders' derivatives trading positions; and (4) the ICAP brokers' direct contacts with submitters and traders at certain panel banks to try to influence their LIBOR submissions. Accordingly, ICAP engaged in repeated acts of attempted manipulation in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006).

D. ICAP Aided and Abetted the Attempts of Derivatives Traders to Cause False or Misleading Yen LIBOR Submissions to be Made and to Manipulate Yen LIBOR

Pursuant to Section 13(a) of the Act, ICAP aided and abetted the attempts of derivatives traders at Yen LIBOR panel banks to manipulate Yen LIBOR in violation of the Act, particularly the Senior Yen Trader. 7 U.S.C. § 13c(a) (2006). Liability as an aider and abettor requires proof that: (1) the Act was violated; (2) the aider and abettor had knowledge of the wrongdoing underlying the violation; and (3) the aider and abettor intentionally assisted the primary wrongdoer. See *In re Nikkhah*, [1999-2000 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,129 at 49,888 n.28 (CFTC May 12, 2000). Although actual knowledge of the primary wrongdoer's conduct is required, knowledge of the unlawfulness of such conduct need not be demonstrated. See *In re Lincolnwood Commodities, Inc.*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,986 at 28,255 (CFTC Jan. 31, 1984). Knowing assistance can be inferred from the surrounding facts and circumstances. *Id.*

As evidenced by the extensive communications, certain ICAP Yen brokers often coordinated with and assisted derivatives traders at Yen LIBOR panel banks, primarily the Senior Yen Trader at UBS, to manipulate the official Yen LIBOR fixings for certain tenors by attempting to cause and at times causing panel banks to make Yen LIBOR submissions at rates or levels that that would benefit the derivatives traders' trading positions. The ICAP brokers knew that the Senior Yen Trader and other traders were trying to manipulate Yen LIBOR to benefit their derivatives trading positions.

UBS, through the acts of the Senior Yen Trader, and other panel banks through acts of their derivatives traders, in coordination with ICAP brokers, attempted to manipulate Yen LIBOR, at times successfully, in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006). Certain ICAP brokers had knowledge of, and intentionally and often assisted, the attempts of the Senior Yen Trader and traders at the other banks to manipulate the rate at which Yen LIBOR was fixed, at times successfully. Accordingly, ICAP, through the acts of certain brokers and a desk manager, aided and abetted the attempts of traders at panel banks to manipulate Yen LIBOR, at times successfully, in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006).

E. ICAP is Liable for the Acts of its Agents

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2012) provide that the act, omission, or failure of any official, agent or other person acting for any individual, association, partnership, corporation or trust within the scope of his employment or office shall be deemed the act, omission or failure of such individual, association, partnership, corporation or trust. Pursuant to Section 2(a)(1)(B) of the CEA and Commission Regulation 1.2, strict liability is imposed on principals for the actions of their agents. See, e.g., *Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986); *Dohmen-Ramirez & Wellington Advisory, Inc. v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988).

ICAP is liable for the acts, omissions and failures of the brokers and managers who acted as their employees and/or agents in the conduct described above. Accordingly, ICAP violated

Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006), as set forth above.

V.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Respondent violated Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006).

VI.

OFFER OF SETTLEMENT

Respondent, without admitting or denying the findings or conclusions herein, except to the extent Respondent admits those findings in any related action against ICAP by, or any agreement with, the Department of Justice or any other governmental agency or office, have submitted the Offer in which Respondent:

- A. Acknowledges receipt of service of this Order;
- B. Admits the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
 - 1. the filing and service of a complaint and notice of hearing;
 - 2. a hearing;
 - 3. all post-hearing procedures;
 - 4. judicial review by any court;
 - 5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 - 6. any and all claims that Respondent may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2012), relating to, or arising from, this proceeding;
 - 7. any and all claims that Respondent may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253,

110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and

8. any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;
- D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer; and
- E. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. makes findings by the Commission that Respondent violated Section 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006);
 2. orders Respondent to cease and desist from violating Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006 & Supp. V 2012);
 3. orders Respondent to pay a civil monetary penalty in the amount of \$65,000,000, plus post-judgment interest; and
 4. orders Respondent and ICAP plc and their successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.

Upon consideration, the Commission has determined to accept the Offer.

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondent shall cease and desist from violating Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006 & Supp. V 2012).
- B. Respondent shall pay a civil monetary penalty of Sixty-Five Million U.S. Dollars (\$65,000,000), within ten (10) days of the date of entry of this Order (the "CMP Obligation"). If the CMP Obligation is not paid in full within ten (10) days of the date of entry of this Order, then post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2006). Respondent shall pay the CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables --- AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-5644

If payment is to be made by electronic funds transfer, Respondent shall contact Linda Zurhorst or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies Respondent and the name and docket number of this proceeding. Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. ICAP plc, Respondent and their successors and assigns (collectively, the “ICAP Companies”)¹⁴ shall comply with the following conditions and undertakings. The ICAP Companies represent that they have already undertaken and implemented, or are implementing certain compliance and supervisory controls or enhancements consistent with the Undertakings.

1. Market Publications – Policies, Procedures and Controls:

- a. The ICAP Companies shall institute, implement and/or strengthen compliance and supervisory policies, procedures and internal controls designed to ensure the integrity of the ICAP Companies’ Market Publications, and to detect, deter and prevent the dissemination of false or misleading market information contained therein. “Market Publication” means: (1) a written communication distributed via any media; (2) that includes predictions, suggestions or

¹⁴ ICAP plc, a company registered in the United Kingdom, is a holding company which is the parent of numerous subsidiaries that are the world’s largest interdealer brokers and providers of post-trade risk and information services. Its subsidiaries are active in the wholesale markets in interest rates, credit, commodities, foreign exchange, emerging markets, equities and equity derivatives. ICAP plc is headquartered in London and its subsidiaries maintain offices in London, New York, Jersey City, and Tokyo, along with other offices in more than 32 countries. ICAP plc is not registered with the Commission in any capacity.

As ICAP plc sets the policies, procedures and controls, including the code of conduct, that apply to all ICAP plc subsidiaries, ICAP plc represents that it shall ensure that all subsidiaries more than fifty percent owned by ICAP plc that issue Market Publications (as defined herein) and/or have cash deposit desks for the Group of Eight (“G8”) currencies and any LIBOR currency, including, but not limited to, the Respondent, *i.e.*, the ICAP Companies, shall comply with these Undertakings.

opinions regarding the levels at which a Benchmark Interest Rate¹⁵ will set; and (3) that is published on a regular basis and is distributed to more than one customer.

- b. Such Policies, Procedures and Controls shall provide that each provision of Market Publications shall be based on upon a rigorous and honest assessment of market data and information, and shall not be influenced by internal or external conflicts of interest or any other illegitimate factors.
- c. Policies, Procedures and Controls relating to Market Publications shall include or provide for the following:
 - i. That Market Publications shall be based on all definitions, rules and guidance applicable to the relevant Benchmark Interest Rate as provided by the Benchmark Publisher;
 - ii. That Market Publications shall be based on transactions, bids and offers, market sentiment, indications of interest, and other relevant market activity information available to the ICAP Companies in the markets relevant to Benchmark Interest Rates. An Author's reliance on and utilization of subjective market activity information should be limited only to information that the Author¹⁶ reasonably and in good faith believes contributes to the accuracy of any predictions, suggestions, or opinions regarding the levels at which a Benchmark Interest Rate will set as contained in the Market Publication;
 - iii. A description of the types of market circumstances that require the use of models, correlated market data or related trading instruments in making Market Publications;
 - iv. The contemporaneous documentation, including recording the basis for, Market Publications, and retention of the same;

¹⁵ The following terms are defined as follows:

Benchmark Interest Rate: An interest rate for a currency and maturity/tenor that is calculated based on data received from market participants and published to the market on a regular, periodic basis, such as LIBOR and Euribor;

Benchmark Publisher: A banking association or other entity that is responsible for or oversees the calculation and publication of a Benchmark Interest Rate; and

Submission(s): The interest rate(s) submitted for each currency and maturity/tenor to a Benchmark Publisher. For example, if a panel bank submits a rate for one-month and three-month U.S. Dollar LIBOR, this would constitute two Submissions.

¹⁶ For the purposes of these Undertakings, the term "Author" means any individual within the ICAP Companies who is responsible for the content of Market Publications.

- v. The review and approval of Market Publications by a supervisor prior to dissemination;
- vi. The inclusion of a supervisor and a representative from the compliance department as an identified recipient on any written Market Publications disseminated;
- vii. The disclosure of the following information for Market Publications disseminated shall include at least the following:
 - 1) A statement that any Market Publication represents the predictions, suggestions, opinions or assessments of the Author based on market data and market activity information;
 - 2) Identification of the source(s) of information or data upon which the Market Publication is based; and
 - 3) As appropriate, identification of the use of any models, correlated markets or related trading instruments in the formation of the Market Publications;
- viii. Internal controls regarding other improper communications related to Market Publications:
 - 1) Such controls shall be designed to detect, deter and prevent improper communications between and among employees, agents and supervisors of the ICAP Companies, or with any outside party, and to ensure the integrity and reliability of the Market Publications;
 - 2) For these purposes, improper communications shall include, at a minimum: (1) any attempt to improperly influence the content of or alter the views contained in Market Publications; (2) using Market Publications for the benefit of any third party's trading position; or (3) any attempt to influence or affect any panel bank's Submission. For example, Market Publications shall not include, and employees, agents and supervisors of the ICAP Companies shall not disclose, a bank's proposed Submissions to other market participants; and
- ix. The periodic but routine review of electronic communications and audio recordings of or relating to the Market Publications and other related communications between and among employees, agents and supervisors of the ICAP Companies, or with any outside party.

2. **Other Market Communications – Policies, Procedures and Controls:**

- a. The ICAP Companies shall institute, implement and/or strengthen compliance and supervisory policies, procedures and internal controls designed to ensure the integrity of the ICAP Companies' Other Market Communications, including provisions for supervision, monitoring, auditing, training and reporting.
- b. Other Market Communications shall include, but are not limited to: (1) predictions, suggestions or opinions regarding the levels of Benchmark Interest Rates communicated orally; (2) predictions, suggestions or opinions regarding the levels of pricing in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency; and (3) communications concerning prices of transactions, bids or offers in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency.
- c. These Policies, Procedures and Controls shall be designed to detect, deter and prevent improper communications between and among employees, agents and supervisors of the ICAP Companies, or with any outside party, and to ensure the integrity and reliability of these Other Market Communications.
- d. For these purposes, improper communications shall include, at a minimum: (1) any attempt to improperly influence the content of or alter the views contained in Other Market Communications; (2) using Other Market Communications improperly for the benefit of any third party's trading position; or (3) any attempt to influence or affect any panel bank's Submission. For example, Other Market Communications shall not include, and employees, agents and supervisors of the ICAP Companies shall not disclose, a bank's proposed Submissions to other market participants.

3. **General Policies, Procedures and Controls:** The ICAP Companies shall institute, implement and/or strengthen the following general policies, procedures and internal controls:

- a. The supervision and management of employees, agents and supervisors of the ICAP Companies to ensure compliance with the ICAP Companies' Policies, Procedures and Controls, and these Undertakings;
- b. The procedure(s) for the reporting and investigation of any violations of the Undertakings, the ICAP Companies' Policies, Procedures and Controls, or any questionable, unusual or unlawful activity concerning the ICAP Companies' Market Publications or Other Market Communications, including notification to the appropriate compliance or legal personnel and reporting, as necessary, to authorities;

- c. The periodic physical presence of compliance personnel on the brokering floors where Market Publications are prepared, and/or products that are the subject of Market Publications are brokered, and/or cash deposits for G8 currencies and any LIBOR currency are brokered, and/or derivatives products based on Benchmark Interest Rates in G8 currencies and any LIBOR currency are brokered, in connection with these Policies, Procedures and Controls, which shall be conducted at least monthly for main offices (including London, U.K. and New Jersey, U.S.) and at least every six months for branch offices; and
 - d. The handling of complaints concerning any improper Market Publications and improper Other Market Communications by any employee, agent or supervisor of the ICAP Companies, including:
 - i. Memorializing all such complaints; and
 - ii. Establishing a review and follow-up by the chief compliance officer(s) or a designee of such complaints; and
 - iii. The reporting of material complaints to the Chief Executive Officer and Board of Directors of the relevant ICAP company, relevant self-regulatory organizations, the Commission, and/or other appropriate regulators.
4. **Qualifications of Authors and Supervisors:** All Authors of Market Publications and their supervisors shall:
- a. Have significant experience in the markets that are the subject of his or her Market Publication, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency; and
 - b. Receive training on the definition, rules and guidance surrounding the applicable Benchmark Interest Rate as set by the Benchmark Publisher.
5. **Documentation:** The ICAP Companies shall provide the documents set forth below promptly and directly to the Commission upon request, without subpoena or other process, regardless of whether the records are held outside of the United States, to the extent permitted by law.
- a. **Requirement to Document Market Publications:** The ICAP Companies shall contemporaneously memorialize, and retain in an easily accessible format, for a period of five (5) years after the date of each dissemination, the following:

- i. All Market Publications;
- ii. The identity of the Authors of the Market Publications disseminated;
and
- iii. The record basis for the Market Publications, including, but not limited to, the following:
 - 1) The relevant market data and information used, including specific transactions, offers and bids relied upon by in formulating the Market Publications;
 - 2) The source(s) of the information or data relied upon;
 - 3) Any models, correlated market data and data for related trading instruments used in formulating the Market Publications; and
 - 4) Any information regarding market events considered in formulating the Market Publications, including the specific market announcement(s) or event(s) and any effect of such market event(s) on transacted rates, offers or bids in the relevant markets.
- b. Transaction Records: The ICAP Companies shall retain for a period of five (5) years trade transaction records related to the brokering activities in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency. The records shall be easily accessible and convertible into the Microsoft Excel file format.
- c. Screen Data: Where an ICAP Company maintains a screen that is utilized to display to customers bids, offers, and/or transactions in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency, the ICAP Companies shall capture and retain for a period of five (5) years a screen shot of such information at the opening and close of the market for such product in the relevant time zone, as well as at the time of the deadline for submitting the Benchmark Interest Rate as imposed by the Benchmark Publisher.
- d. Requirement to Record Communications: The ICAP Companies shall record and retain to the greatest extent practicable:
 - i. All communications of employees, agents or supervisors of the ICAP Companies who primarily broker products in the markets that are the subject of Market Publications, and/or in cash deposit markets related

to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency.

- ii. The above communications shall not be conducted in a manner to prevent the ICAP Companies from recording such communications.
- iii. Audio communications of Authors of Market Publications and their supervisors shall be retained for a period of one (1) year. Audio communications of other employees, agents or supervisors of ICAP Companies who primarily broker products in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency shall be retained for a period of six (6) months. Subject to a reasonable time to implement, the ICAP Companies' audio retention requirements pursuant to these Undertakings shall commence within a reasonable period after the entry of this Order and shall continue for a period of five (5) years thereafter.
- iv. All communications except audio communications shall be retained for a period of five (5) years.
- v. Nothing in these Undertakings shall limit, restrict or narrow any obligations pursuant to the Act or the Commission's Regulations promulgated thereunder, including but not limited to Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31 and 1.35 (2012), in effect now or in the future.

6. Monitoring and Auditing:

- a. Monitoring: The ICAP Companies shall maintain or develop monitoring systems or electronic exception reporting systems that identify possible improper or unsubstantiated Market Publications or related communications among employees, agents or supervisors of the ICAP Companies or with any outside party.
 - i. This monitoring shall include reviews of written communications in any media and shall include supervisors. It shall also include reviews of oral communications of Authors and their supervisors.
 - ii. Such reports will be reviewed on at least a monthly basis and if any significant issues are identified, then the underlying documentation for the Market Publications shall be reviewed to determine whether the Market Publications are adequately substantiated. If it is not substantiated, the ICAP Companies shall notify their chief compliance officer(s).

- b. Periodic Audits: Starting six (6) months from the date of the entry of this Order, and continuing every six (6) months thereafter, unless an annual audit is scheduled at the same time, the ICAP Companies shall conduct internal audits of reasonable, random samples of Market Publications being disseminated, the evidence documenting the basis for such Market Publications, and the related communications of the Market Publications Author in order to verify the integrity and reliability of the Market Publications.
- c. Annual Audits By Third Party Auditors: Starting one (1) year from the date of the entry of this Order and continuing annually for four (4) additional years thereafter, the ICAP Companies shall retain an independent, third-party auditor to conduct an audit of the desks brokering products in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency, including employees, agents, supervisors and managing directors (or similarly situated persons with responsibility for desk management or oversight), to ensure they are in compliance with the new Policies, Procedures and Controls implemented as a result of these Undertakings, and to confirm the adequate supervision of these desks. The annual audits shall include, without limitation, the following:
 - i. Reviewing the clients of each desk and of the employees, agents or supervisors of the desk to determine the most significant corporate and individual clients;
 - ii. Reviewing communications of employees, agents, and supervisors on the desks, as well as managing directors (or similarly situated persons with responsibility for desk management or oversight). This review shall include the communications between and among employees, agents and supervisors on the desks and communications with the most significant corporate and individual clients of the desk;
 - iii. Interviewing the employees, agents and supervisors on the desks, to the extent they are still employed by the ICAP Companies;
 - iv. Reviewing Market Publications being disseminated, the evidence documenting the basis for such Market Publications, and the related communications of the Market Publications Author;
 - v. Obtaining written verification from the employees, agents and supervisors on desks, to the extent they are still employed by the ICAP Companies, that their Market Publications were consistent with this Order, and the ICAP Companies' Policies, Procedures and Controls; and

- vi. Providing a written audit report to ICAP plc, Respondent, and the Commission (with copies addressed to the Commission's Division of Enforcement (the "Division")).

7. **Training:** The ICAP Companies shall develop training programs for all employees, agents and supervisors who are involved in creating and/or disseminating Market Publications. Such employees, agents and supervisors shall be provided with preliminary training regarding the Policies, Procedures and Controls developed pursuant to these Undertakings. By no later than February 6, 2014, all employees, agents and supervisors in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency shall be fully trained in the application of these Undertakings to them, as set forth herein. Thereafter, such training will be provided promptly to employees newly assigned to any of the above listed responsibilities, as part of the ICAP Companies' regular training programs. The training shall be based upon the individual's position and responsibilities, and as appropriate, address the following topics:

- a. The Undertakings set forth herein;
- b. The impropriety of: (1) any attempt to improperly influence the content of and alter the views contained in Market Publications or Other Market Communications; (2) using Market Publications or Other Market Communications improperly for the benefit of any third party's trading position; or (3) any attempt to influence or affect any panel bank's Submission(s);
- c. The requirement to conduct all business related to Market Publications, and certain business related to the markets that are the subject of Market Publications, and/or cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency, on the ICAP Companies' recorded telephone and electronic communications systems, and not on personal telephones or other electronic devices, as set forth in Section 5.iv. of these Undertakings;
- d. The policies and procedures developed and instituted pursuant to these Undertakings; and
- e. The employment and other potential regulatory and criminal consequences if employees act unlawfully or improperly in connection with these Undertakings.

8. Reports to the Commission:

- a. Compliance with Undertakings: Every four (4) months, starting 120 days from the entry of this Order, ICAP plc and Respondent shall make interim reports to the Commission, through the Division, explaining their progress towards compliance with the Undertakings set forth herein. Within 365 days of the entry of this Order, ICAP plc and Respondent shall submit a report to the Commission, through the Division, explaining how they have complied with the Undertakings set forth herein. The report shall attach copies of and describe the Policies, Procedures and Controls that have been designed and implemented to satisfy the Undertakings. The report shall contain a certification from a representative of ICAP plc's and the Respondent's Executive Management, after consultation with the ICAP Companies' chief compliance officers, that ICAP plc and Respondent have complied with the Undertakings set forth above, and that they have established Policies, Procedures and Controls to satisfy the Undertakings set forth in this Order;
- b. Compliance with Initial Training: Within two weeks of completing the training required in Section 7 of these Undertakings, ICAP plc and Respondent shall provide to the Commission, through the Division, written affirmation that all employees, agents and supervisors in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency have been fully trained in the application of these Undertakings to them; and
- c. Disciplinary and Other Actions: ICAP plc and Respondent shall promptly report to the Commission, through the Division, all improper conduct related to any Market Publication or the attempted manipulation or manipulation of a Benchmark Interest Rate, as well as any disciplinary action, or other law enforcement or regulatory action related thereto, unless *de minimis* or otherwise prohibited by applicable laws or regulations.

9. Cooperation with the Commission:

- a. ICAP plc and Respondent shall cooperate fully and expeditiously with the Commission, including the Division, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto. As part of such cooperation, ICAP plc and Respondent agree to the following for a period of five (5) years from the date of the entry of this Order, or until all related investigations and litigation are concluded, including through the appellate review process, whichever period is longer:

- i. Preserve all records relating to the subject matter of this proceeding, including, but not limited to, audio files, electronic mail, other documented communications, and trading records;
 - ii. Comply fully, promptly, completely, and truthfully with all inquiries and requests for information or documents;
 - iii. Provide authentication of documents and other evidentiary material;
 - iv. Subject to applicable laws and regulations, provide copies of documents within ICAP plc and Respondent's possession, custody or control;
 - v. Subject to applicable laws and regulations, ICAP plc and Respondent will make their best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of ICAP plc and Respondent, regardless of the individual's location, and at such location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including, but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation; and
 - vi. Subject to applicable laws and regulations, ICAP plc and Respondent will make their best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee or agent of ICAP plc and Respondent.
- b. ICAP plc and Respondent also agree that they will not undertake any act that would limit their ability to cooperate fully with the Commission. ICAP plc and Respondent will designate an agent located in the United States of America to receive all requests for information pursuant to these Undertakings, and shall provide notice regarding the identity of such Agent to the Division upon entry of this Order. Should ICAP plc and Respondent seek to change the designated agent to receive such requests, notice of such intention shall be given to the Division fourteen (14) days before it occurs. Any person designated to receive such request shall be located in the United States of America.

10. Prohibited Or Conflicting Undertakings:

- a. Should the Undertakings herein be prohibited by, or be contrary to the provisions of any obligations imposed on ICAP plc or Respondent by any presently existing, or hereinafter enacted or promulgated laws, regulations and regulatory mandates, then ICAP plc and Respondent shall promptly transmit

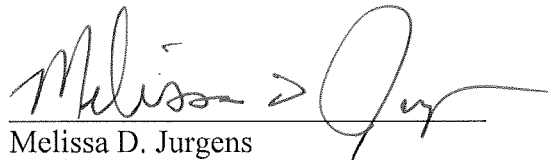
notice to the Commission (through the Division) of such prohibition or conflict, and shall meet and confer in good faith with the Commission (through the Division) to reach an agreement regarding possible modifications to the Undertakings herein sufficient to resolve such inconsistent obligations. In the interim, ICAP plc and Respondent will abide by the obligations imposed by the law, regulations and regulatory mandates.

- b. Nothing in these Undertakings shall limit, restrict or narrow any obligations pursuant to the Act or the Commission's Regulations promulgated thereunder, including but not limited to Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31 and 1.35 (2012), in effect now or in the future.

- 11. **Public Statements:** ICAP plc and Respondent agree that neither they nor any of their successors and assigns, agents or employees under their authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect ICAP plc and Respondent's (i) testimonial obligations, or (ii) right to take legal positions in other proceedings to which the Commission is not a party. ICAP plc, Respondent and their successors and assigns shall undertake all steps necessary to ensure that all of their agents and/or employees under their authority or control understand and comply with this agreement.

The provisions of this Order shall be effective as of this date.

By the Commission.


Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 25, 2013